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S. HRG. 100-61

# DESIGNATING THE KERN AND MERCED RIVERS AS NATIONAL WILD AND SCENIC RIVERS

## HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

**S. 247**

TO DESIGNATE THE KERN RIVER AS A NATIONAL WILD AND SCENIC RIVER

**S. 275**

TO AMEND THE WILD AND SCENIC RIVERS ACT

**H.R. 317**

TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING A SEGMENT OF THE MERCED RIVER IN CALIFORNIA AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

APRIL 23, 1987

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# DESIGNATING THE KERN AND MERCED RIVERS AS NATIONAL WILD AND SCENIC RIVERS

THURSDAY, APRIL 23, 1987

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman, presiding.

## OPENING STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator BINGAMAN. Why don't we call the hearing to order. Let me make a very short statement and then we will start with Senator Cranston and his testimony.

The purpose of this hearing is to receive testimony on two measures before the Public Lands, National Parks and Forests Subcommittee.

The measures are S. 247, a bill to designate both the North and South Forks of the Kern River for inclusion in the Wild and Scenic Rivers System; and S. 275, a bill to designate the Main Stem and North Fork of the Merced River for inclusion in the Wild and Scenic Rivers System.

The subcommittee also has before it the House-passed Merced River bill, H.R. 317.

Opinions vary widely on which portions of these rivers should be included in the Wild and Scenic Rivers System. We are, therefore, particularly interested in hearing the testimony today.

I understand that most of you have traveled from California and we appreciate your coming so far to give us your views on this.

Unfortunately, our time is limited today and I will ask that each of you try to summarize your testimony and limit it to no more than five minutes.

At this point I will put copies of these proposals in the hearing record and the record will remain open for two weeks after today to receive any additional comments and material.

[The texts of the bills and a statement from State Senator Rogers follow:]

II

100TH CONGRESS
1ST SESSION

# S. 247

To designate the Kern River as a national wild and scenic river.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. CRANSTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

# A BILL

To designate the Kern River as a national wild and scenic river.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"(59) NORTH FORK KERN RIVER, CALIFORNIA.—The segment of the main stem from the Tulare-Kern County line to its headwaters in Sequoia National Park, as generally depicted on a map entitled 'Proposed North Fork Kern River', numbered fs–59 and dated March, 1986; to be administered by the Secretary of Agriculture; except that those portions of the river within the boundaries of the Sequoia National Park

shall be administered by the Secretary of the Interior. With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revision to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests therein and for development.

"(60) SOUTH FORK KERN RIVER, CALIFORNIA.—The segment from its headwaters in the Inyo National Forest to the southern boundary of the Domelands Wilderness in Sequoia National Forest, as generally depicted on the Proposed Boundary Map, numbered fs–60, and dated March, 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing

after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.".

II

100TH CONGRESS
1ST SESSION

# S. 275

To amend the Wild and Scenic Rivers Act.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. WILSON (for himself and Mr. CRANSTON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

# A BILL

To amend the Wild and Scenic Rivers Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) as amended is further amended by inserting the following new paragraph:

"( ) MERCED, CALIFORNIA.—The main river from its source on the south side of Mount Lyell in Yosemite National Park to the point of maximum flood control storage of Lake McClure, consisting of approximately eighty-two miles, and the South Fork of the river from its source near Triple Divide Peak in Yosemite National Park to the confluence with the main stem, consisting of approximately forty-three miles,

both as generally depicted on the map entitled 'Merced and So. Fork Merced Rivers' contained in the appendices of the Draft Environmental Impact Statement for the Sierra National Forest published by the United States Department of Agriculture in 1986; to be administered by the Secretary of Agriculture and the Secretary of the Interior. After consultation with State and local governments and the interested public and within two years from the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section. For fiscal years commencing after September 30, 1987, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.".

II

100TH CONGRESS
1ST SESSION

# H. R. 317

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 30), 1987
Received

APRIL 2 (legislative day, MARCH 30), 1987
Read twice and referred to the Committee on Energy and Natural Resources

# AN ACT

To amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF MERCED RIVER.**

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"(62) MERCED, CALIFORNIA.—The South Fork Merced River from its source (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyle Fork) in Yosemite National Park to the junction with the main stem, and the

main stem from its source in Yosemite National Park to a point at Highway 140 at the town of Briceburg, as generally depicted on a map entitled 'Proposed Merced River,', to be administered by the Secretary of Agriculture; except that those portions of the river within the boundaries of Yosemite National Park, the El Portal Administrative unit, and the portion of the river flowing through lands administered by the Bureau of Land Management shall be administered by the Secretary of the Interior. With respect to the portions of the river designated by this paragraph which are within the boundaries of Yosemite National Park, and the El Portal Administrative unit, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of such river segments. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated such sums as may be necessary for the acquisition of lands and interests in lands and for development.".

(b) RENUMBERING.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Cache La Poudre River, the Saline Bayou, Black Creek, the Klickitat, and the White Salmon as paragraphs (57) through (61), respectively.

**SEC. 2. LOWER MAIN STEM OF MERCED RIVER.**

For the purpose of protecting the scenic, natural, cultural, recreational, and fish and wildlife values of the lower main stem of the Merced River, California, from Highway 140 at the town of Briceburg to the point of maximum flood control storage of Lake McClure, such segment shall be subject to the provisions of subsection (a) of section 7 of the Wild and Scenic Rivers Act in the same manner as the other river segments referred to in such subsection (a). The protection afforded by this section shall expire on September 30, 1992.

**SEC. 3. CONSULTATION.**

For purposes of sections 1 and 2 of this Act, the Secretary of Agriculture shall consult with the appropriate State and local officials, including the Mariposa County Board of Supervisors, as required by the provisions of section 3(d)(1) of the Wild and Scenic Rivers Act.

Passed the House of Representatives March 31, 1987.

Attest: DONNALD K. ANDERSON,

*Clerk.*

PLEASE RESPOND TO
SACRAMENTO OFFICE
STATE CAPITOL
SACRAMENTO, CA 95814

# California State Senate

SENATOR
DON ROGERS
Sixteenth Senatorial District

April 6, 1987

Honorable Dale Bumpers
Chairman, Senate Subcommittee
Public Lands, National Parks
and Forests
112 Hart Building
Washington, D.C. 20510

Dear Senator Bumpers:

The purpose of this letter is to register my opposition to S. 247. The focus of my opposition is the 17.3 miles of the Kern River in Tulare County which is included in S. 247.

For many years this part of the Kern River has been well managed by the Forest Service. There is no need and very little support for placing this portion of the Kern River in S. 247.

I respectfully suggest that this 17.3 miles be removed from the scope of S. 247.

Sincerely,

Don Rogers

DON ROGERS

DR/ch

Senator BINGAMAN. Before we begin testimony from the witnesses outside the Senate we are honored to have Senator Cranston here who is a prime sponsor on this legislation. I believe Senator Wilson is also going to appear sometime a little later.

Senator Cranston, why don't you go ahead with any statement you have. We are pleased to have you here.

## STATEMENT OF HON. ALAN CRANSTON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator CRANSTON. Thank you very much, Mr. Chairman, Jeff.

I am pleased to have this opportunity to testify in support of S. 247 and S. 275, legislation I am sponsoring with Senator Wilson to add the Kern and Merced Rivers in California to the National Wild and Scenic Rivers System.

Altogether S. 247 designates 151 miles of the North and South Forks of the Kern River as components of the Wild and Scenic Rivers System.

The North Fork includes 79.5 miles from its headquarters in Sequoia National Park to the Tulare/Kern County line. This river segment has been studied by the Forest Service for inclusion in the Wild and Scenic Rivers System and in its January 19, 1982 report the Service identifies this entire stretch as possessing "outstandingly remarkable aesthetic and other resource values" and recommends designation.

The 72.5 miles of the North Fork from its headwaters to the southern boundary of the Domelands Wilderness have long been recognized as qualifying for the wild and scenic study. National Rivers Inventory of January 1982 identify the South Fork of the Kern River as potential candidate for the Wild and Scenic Rivers System.

Further, the draft forest plan for the Sequoia National Forest issued in November 1985 identifies the entire segment as eligible for designation.

Turning to S. 275, the bill adds 125 miles of the South Fork and Main Stem of the Merced River in California to the National Wild and Scenic Rivers System.

It designates 43 miles of the North Fork from its source near Triple Divide Peak in Yosemite to its confluence with the Main Stem and 82 miles of the Main Stem from its sources on Mount Lyell, Red Peak, Merced Peak and Triple Divide Peak to Lake McClure Reservoir. I want to emphasize that all 125 miles have been recommended for wild and scenic river status by the Forest Service in the draft environmental impact statement for the Sierra National Forest, published by the U.S. Department of Agriculture in September, 1986.

This includes the 8 mile section from Briceburg to Lake McClure Reservoir. Recently released BLM Draft Sierra Management Framework Plan also recommends designation of the 8 mile stretch along which parallels an enormously popular hiking trail. Jeff, I hope you and the other members of the committee will include both bills without amendment to grant the Kern River and Merced River the lasting protection they both fully deserve. They are beau-

tiful rivers, they need to be saved. I trust we will be able to do so. And I thank you very much.

[The prepared statement of Senator Cranston follows.]

STATEMENT BY SENATOR ALAN CRANSTON
IN SUPPORT OF S. 247 AND S. 275
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. Chairman, I'm pleased to have this opportunity to testify in support of S. 247 and S. 275, legislation I'm sponsoring with Senator Wilson to add the Kern and Merced Rivers in California to the national wild and scenic rivers system.

Altogether, S. 247 designates 151 miles of the North and South Forks of the Kern River as components of the wild and scenic rivers system.

The North Fork includes 78.5 miles from its headwaters in Sequoia National Park to the Tulare/Kern County line. This river segment has been studied by the Forest Service for inclusion in the wild and scenic rivers system and in its January 19, 1982 report the Forest Service identifies this entire stretch as possessing "outstandingly remarkable aesthetic and other resource values" and recommends designation.

The 72.5 miles of the South Fork from its headwaters to the southern boundary of the Domelands Wilderness have long been recognized as qualifying for the wild and secnic rivers system. Although there's been no formal wild and scenic study, the National Rivers Inventory of January 1982 identified the South Fork of the Kern River as a potential candidate for the wild and scenic rivers system. Further the draft forest plan for the Sequoia National Forest issued in November 1985 identifies the entire segment as eligible for designation.

The San Francisco Examiner writes "If ever a waterway deserved the protection of the nation's Wild and Scenic Rivers Act, it is California's magnificent Kern River. Among its many extraordinary attributes, the river contains the longest free-flowing stretch of water in the Sierra Nevada, and its south fork alone passes through no fewer than five distinct land types, including forest and desert."

I want to make it clear that there would be no condemnation of private lands as a result of this legislation. The Wild and Scenic Rivers Act specifically prohibits the use of condemnation for fee acquisition when more than 50 percent of the land in the river corridor is already federally owned. In this case more than 95 percent of the land is in federal ownership. Additionally, with respect to acquisition of scenic and access easements, section 16(c) of the Act provides that an easement cannot affect, without the owner's consent, any regular use exercised prior to the date of acquisition.

However, because of continuing concerns about possible condemnation, the Committee may want to include language in any report on the bill to reassure property owners that they are protected under the Act.

Also, Southern California Edison has a diversion dam on the North Fork associated with a hydroelectric project outside the river corridor. Inclusion of the Kern in the wild and scenic rivers system would not affect this existing diversion. Nonetheless, the utility is concerned that future repair or reconstruction of the existing facility may be considered new construction. Thus, I urge the Committee to include language in any report on the bill to restate and ensure that designation shall not interfere with the operation, maintenance or repair of Edison's project identified as FERC Project # 2290.

Finally I'd like to comment on the issue of flood control. I understand there is a Kern County resident who has raised concerns about the need for additional flood control on the Kern River above Lake Isabella to protect Kernville. It's my understanding the Army Corps of Engineers and the State Water Resources Board have conducted extensive studies of this situation and in 1982 the Corps found that construction of a project was economically unfeasible. No local government agency has pursued a project.

Turning to S. 275, the bill adds 125 miles of the South Fork and the main stem of the Merced River in California to the national wild and scenic rivers system.

It designates 43 miles of the South Fork from its source near Triple Divide Peak in Yosemite National Park to its confluence with the main stem and 82 miles of the main stem from its sources on Mount Lyell, Red Peak, Merced Peak, and Triple Divide Peak in Yosemite National Park to Lake McClure Reservoir.

I want to emphasize that all 125 miles have been recommended for wild and scenic river status by the Forest Service in the Draft Environmental Impact Statement for the Sierra National Forest published by the United States Department of Agriculture in September 1986. This includes the 8 mile section from Briceburg to Lake McClure Reservoir. The recently released BLM Draft Sierra Management Framework Plan also recommends designation of this 8 mile stretch along which parallels an enormously popular hiking trail.

Earlier in its April 1980 Nationwide Rivers Inventory the Department of the Interior identified the South Fork of the Merced as a high quality free-flowing river. As a supplement to that study, the National Park Service reported in July 1980 that "of all the rivers near Yosemite the South Fork is the most qualified for Wild and Scenic River status. This is especially true for the area outside Yosemite National Park which may be subject to increasing detrimental impacts. We strongly recommend that the South Fork be included in the Wild and Scenic Rivers System to protect the unique and spectacular features."

The main stem of the Merced River within Yosemite National Park flows through Sierra Nevada mountain landscape and some of the most beautiful scenery anywhere in the world. Below El Portal outside the park, the main stem flows through Sierra chaparral foothills, national forest and BLM lands where there is tremendous recreational use -- rafting, kayaking, camping, picnicking, fishing, swimming, floating. According to the Forest Service, an increasing number of campers are making the Merced

River from El Portal to Lake McClure their destination rather than Yosemite National Park.

I'm taking the time to describe this area because near El Portal just 100 yards outside the park a diversion project has been proposed by Keating Associates. The project would be a visual intrusion at the gateway to Yosemite National Park. It would reduce flows of the Merced for about 4 miles, 3 of which are designated a California wild trout stream, and have adverse impacts on the environment and serious effects on the local economy which depends very heavily on tourism. S. 275 would preclude the construction of this highly unpopular and unnecessary hydroelectric project.

There is also discussion of -- but no specific plans for -- another project on the main stem of the Merced between Briceburg and Lake McClure Reservoir. I sympathize with Mariposa County's need to develop additional water supplies and recognize that the Merced River is a possible water source. However, there are alternatives for Mariposa including water supply development on the Merced below the area proposed for designation. Leaving the Briceberg to Lake McClure stretch out of the wild rivers system would expose this qualifying segment to potential development and jeopardize use of an historic trail.

Mr. Chairman, I urge you and the other members of the Committee to approve both bills without amendment to grant the Kern River and the Merced River the lasting protection they both fully deserve. Thank you.

Senator BINGAMAN. Thank you very much for your statement. I am sure as questions come up we will address them to the other people that attend. I appreciate it very much.

I gather Senator Wilson is going to be here a little later.

Congressman Collins will not be here today.

So our next witness is James W. Stewart, Acting Associate Director of the National Park Service. If he would come forward, please.

George Leonard, Associate Chief of the Forest Service is also here. Perhaps you could come up at the same time.

We will hear from both of you and get your views on this.

Mr. Stewart, do you want to start for the Park Service?

**STATEMENT OF JAMES W. STEWART, ACTING ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR**

Mr. STEWART. Yes, Mr. Chairman. I understand my statement has been delivered to you, so I will summarize very briefly.

Senator BINGAMAN. Thank you.

Mr. STEWART. I will speak first to S. 247. With respect to that bill which is concerned with the North and South Forks of the Kern, my testimony addresses the approximate 25 mile section of the Sequoia National Park. We will defer to the Forest Service on the rest of the segments.

We recommend enactment of S. 247 as far as that segment is concerned. The entire segment is within a very fine wilderness area designated by the California Wilderness Act of 1984.

This portion of the Kern includes the headwaters and the spectacular reaches of the Kern Canyon, and we strongly recommend establishment.

With regard to the Merced River, S. 275 would designate two segments of the Merced River, an 82 mile segment of the Main Stem and 43 mile segment of the South Fork.

H.R. 317 as mentioned before is a similar bill as offered in the past. Both bills would designate 53 miles of the river within Yosemite National Park and 4 miles of the Main Stem within El Portal administrative site.

Both bills would designate 25 miles of the South Fork of the Merced River. Again my testimony addresses those segments within the park and administrative site, and we defer to the Forest Service on the other parts.

Again, we strongly support enactment of either of the bills, 275 or 217 insofar as they affect the park.

There have been several proposals for dams on the South Fork in the past. These would affect scenery, wildlife and fisheries and a pending hydroelectric project on the Main Stem of the Merced River has been proposed. We have opposed this project and this legislation is consistent with our position.

The effect of the bill would be to assure that appropriate facilities both within the park and on the Main Stem North Fork would be protected.

Section 2 of H.R. 317 provides that 8 miles of the Main Stem from Briceburg to Bagby under the jurisdiction of the Bureau of

Land Management would be protected by a 5-year moratorium on water projects.

S. 275 would designate this section as a component of the Wild and Scenic Rivers System. We believe the segment is qualified for designation but would not object to the moratorium if that is the wish of the Congress.

H.R. 317 provides that revisions to the general management plans for Yosemite National Park would suffice for meeting the planning requirements of Section 3B of the Wild and Scenic Rivers Act, and we recommend similar language be adopted for S. 275.

That concludes my statement.

[The prepared statements of Mr. Stewart follow:]

STATEMENT OF JAMES W. STEWART, ACTING ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 247, A BILL TO DESIGNATE THE KERN RIVER AS A NATIONAL WILD AND SCENIC RIVER.

April 23, 1987

---

Mr. Chairman, I appreciate this opportunity to provide your Subcommittee with the views of the Department of the Interior on S. 247.

S. 247 would designate two segments of the Kern River in California as components of the National Wild and Scenic Rivers system: 78.5 miles of the North Fork, and 72.5 miles of the South Fork. Approximately 25 miles of the North Fork segment is within Sequoia National Park, and the remainder of both segments crosses other Federal lands. My testimony will address only the effect of this designation on the national park. We defer to the views of the Department of Agriculture with respect to those portions of these river segments that cross National Forest lands.

We recommend the enactment of S. 247, insofar as it affects our administration of Sequoia National Park.

S. 247 would designate about 25 miles of the North Fork Kern River within Sequoia National Park as a wild and scenic river.

This portion of the North Fork includes the headwaters and the spectacular reaches of Kern Canyon within the Park. The entire segment within the park was designated as wilderness by section 106 of the Act of September 28, 1984, the California Wilderness Act of 1984.

The North Fork segment within Sequoia National Park qualifies for designation, and we strongly support such a result under S. 247. With respect to the remainder of the North Fork and the South Fork segment proposed for designation in the bill, we defer to the views of the Forest Service.

This concludes my prepared testimony, Mr. Chairman. I would be pleased to respond to any questions you may have.

STATEMENT OF JAMES W. STEWART, ACTING ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 275, A BILL TO AMEND THE WILD AND SCENIC RIVERS ACT TO DESIGNATE A SEGMENT OF THE MERCED RIVER , CALIFORNIA, AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

April 23, 1987

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Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on this legislation.

S. 275 would designate two segments of the Merced River in California as components of the National Wild and Scenic Rivers System: an 82-mile segment of the main stem; and a 43-mile segment of the South Fork.

There is also pending before your Committee H.R. 317, a similar bill, which passed the House of Representatives on March 31. It would designate 74 miles of the main stem and 43 miles of the South Fork as components of the National System.

Both bills would designate 53 miles of the main stem within Yosemite National Park and 4 miles of the main stem within the El Portal administrative site for the park. Both bills would designate 25 miles of the South Fork within Yosemite National Park. My testimony will address only the effect of these

designations on the national park and administrative site. We defer to the views of the Department of Agriculture with respect to those portions of these river segments that cross National Forest lands.

We strongly support the enactment of either bill, insofar as they affect our administration of Yosemite National Park and the El Portal administrative site.

Both the South Fork and the main stem of the Merced rise in Yosemite National Park and flow generally westward out of the park and onto the Sierra National Forest. The South Fork drops from 10,500 feet elevation to 1,400 feet in 43 miles, running through lands that have been designated as wilderness and through a small developed area in the park, Wawona. The gradient is too steep for rafting, but swimmers and waders use the pools in summer, and the South Fork is one of only 16 State designated Wild Trout Streams.

Although currently there are no hydroelectric projects pending for the South Fork, there have been several proposed in recent years, including a proposed 470-foot-high dam located less than 5 miles from the park boundary that would have affected the fishery and park scenery and wildlife. The effect of S. 275 and H.R. 317 would be to prohibit such projects on both the South Fork and the main stem.

The main stem of the Merced runs through Yosemite Valley in the park and through El Portal administrative site. We fully intend to make appropriate revisions in the General Management Plan for the park and in plans for the administrative site to achieve consistency with Wild and Scenic River status. We note that H.R. 317 provides that revisions in the General Management Plan for the park will suffice for meeting the planning requirements in section 3(b) of the Wild and Scenic Rivers Act. We recommend that similar language be adopted for S. 275 if that bill becomes the vehicle for Congressional action. We assume that plans for the administrative site are intended to be included in the reference to plans for the park. Cascade Dam within the park has already been scheduled for removal, and a study is underway to determine management steps to restore and protect the Merced River corridor. Private lands in the Wawona area would not be affected by this designation, since any acquisition or other land protection activities would continue to be governed by the Land Protection Planning process for the park.

The effect of S. 275 and H.R. 317 on the river segments within the park and administrative site is to assure that the National Park Service will not develop dams or other inappropriate facilities on the designated segments for administrative or visitor use. We have no intention of doing so. The bills would also have the effect of prohibiting a pending hydroelectric project on the main stem of the Merced that could have adverse effects on the park and administrative site. We have opposed

this project, and this legislation is consistent with our position. The project is a 10-foot high dam and a 12-foot wide diversion tunnel which would significantly reduce flows in a 4-mile stretch of river through the El Portal administrative site and beyond. The dam would be built only 500 feet from the National Park boundary.

We note that the Bureau of Land Management (BLM) has jurisdiction over a 3.5-mile segment of the main stem from the Sierra National Forest boundary to Briceburg. This section would be included in the Wild and Scenic River designation under both bills. Commercial white water rafting from the Park boundary downstream is managed by the BLM under an agreement with the Sierra National Forest. We recommend that this continue.

We note that, under section 2 of H.R. 317 the lower main stem of the Merced from Briceburg to Bagby, 8 miles under BLM jurisdiction, would not be designated as a Wild and Scenic River, but would be protected by a 5-year moratorium on water projects pending further study. S. 275 would designate this segment as a component of the National Wild and Scenic Rivers System. Although we believe this segment qualifies for designation, we would not object to the 5-year protective provision in H.R. 317, since it preserves Congressional options for later designation.

This concludes my prepared testimony, Mr. Chairman. I would be pleased to respond to any questions you may have.

Senator BINGAMAN. Thank you, very much. We appreciate your statement.

Mr. Leonard, did you want to give us the point of view of the Forest Service?

## STATEMENT OF GEORGE M. LEONARD, ASSOCIATE CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. LEONARD. Yes, thank you, Mr. Chairman. I appreciate the opportunity to testify on these two bills.

With regards to the Merced River system the Department recommends enactment of 275. We do have some concerns about provisions in H.R. 317 as applies to this river which sets up a, in effect, third category of land in which restrictions on water resource development are applied to a segment.

We think we ought to either make a decision to add an area to the Wild and Scenic Rivers System or leave it out and not create a third program of either study or classification.

With regards to the Kern River, we recommend classification of the Kern River, both the North Fork and South Fork. However, there is a 17.8 mile segment on the North Fork from just above the Johnsondale bridge on down to the Kern County line which in a study we made in accordance with the direction of the Congress we determined there was some local objection to classification of that area, some concern about the impact on potential mining activity.

Therefore, the study being considered to the Congress in 1985 recommended deletion of that 17.8 mile section and we recommend that that deletion be incorporated in this legislation. Other than that we support classification of the remainder of both the North Fork and the South Fork.

[The prepared statement of Mr. Leonard follows:]

STATEMENT OF
GEORGE M. LEONARD, ASSOCIATE CHIEF
FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate

Concerning S. 275, H.R. 317, and S. 247

April 23, 1987

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to testify for the Department of Agriculture regarding S. 275, H.R. 317, and S. 247. S. 275 and H.R. 317 would designate a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System. S. 247 would designate a segment of the Kern River in California as a component of the National Wild and Scenic Rivers System.

Merced Wild and Scenic River (S. 275 and H.R. 317)

The Department of Agriculture recommends enactment of S. 275, insofar as it would affect National Forest System lands. As noted in our testimony, we have some concern for the provisions of sections 2 and 3 of H.R. 317.

We defer to the Department of the Interior for recommendations on those portions of the Merced River under its jurisdiction.

S. 275 would designate the main stem of the Merced River as wild and scenic from its source in Yosemite National Park to the point of maximum flood control storage of Lake McClure. The bill would designate the South Fork of the Merced as wild and scenic from its source in Yosemite National Park to its confluence with the main stem of the river.

H.R. 317 would designate the South Fork of the Merced River as wild and scenic from its source in Yosemite National Park to its confluence with the main stem. The bill would also designate the main stem of the Merced from its source in Yosemite National Park to State Highway 140 near the town of Briceburg. The lower main stem of the Merced below Briceburg and outside of the National Forest would be given protection under section 7 of the Wild and Scenic Rivers Act until September 30, 1992.

As illustrated on the display map, jurisdiction over both the South Fork and main stem of the river corridor designated by both bills includes the National Park Service, 82 miles, and the Forest Service, 25 miles. There are also 18 miles which are interspersed with BLM, State of California, and private lands which includes the portion of the river covered by section 2 of H.R. 317. The Merced River was identified as a potential Wild and Scenic River in The National Rivers Inventory published by the National Park Service in 1982.

The Merced River has been studied to determine its potential as a Wild and Scenic River by the Sierra National Forest as a part of the Forest planning process. The preferred alternative in the Draft Plan and Environmental Impact Statement, completed in September 1986, recommends designation of the river.

A small percentage of the river corridor within the National Forest boundary crosses small scattered tracts of private land as shown on the display map.

Present mining activities in the form of recreational gold mining are primarily part-time ventures. Enactment of either bill would not have any significant impact on National Forest timber management programs. The major potential use of the river forgone by wild and scenic designation is hydroelectric power development. Enactment of either bill would not require the purchase of private lands or scenic easements.

Significant recreational values related to the Merced River will be insured by these bills. An estimated 8,000 persons raft portions of the river annually, and 26 commercial outfitters offer 1-2 day trips. Hiking, picnicking, and camping are all popular activities throughout the river corridor. Demand for Forest Service campgrounds exceeds capacity from late spring through early autumn.

We have concerns with sections 2 and 3 of H.R. 317. Section 2 refers to that portion of the Merced River from Highway 140 to the point of maximum flood storage of Lake McClure and affords that segment the protection of section 7(a) of the Wild and Scenic Rivers Act until September 30, 1992. We are concerned that such a provision is inconsistent with the intent of section 7 of the Wild and Scenic rivers Act.

Section 7(a) prevents the construction of water resources projects on designated components of the Wild and Scenic Rivers System which have a "direct

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and adverse effect" on values for which the river was designated a component of the System. It is unclear why this provision is included if that portion of the river is not a component of the System. It would also make it unclear what precise criteria would be used for determining direct and adverse effects. Likewise, it is unclear why this provision is included if that portion of the river is not under a mandate for study pursuant to section 5 of the Act. If the objective is to protect this river segment for a study period, the we suggest Congress afford the complete protections for study rivers under sections 4(d), 7(b), 8(b), and 9(b). The present language of section 2 does not fully accomplish this protection.

The Wild and Scenic Rivers Act is a comprehensive statute for consideration and protection of potential additions to the System. For consistency, rivers should either be designated components of the National System pursuant to section 3(a) of the Act or made study rivers pursuant to section 5(a). Study status provides ample protection for the study period to protect the river from adverse developments while protecting valid existing rights. We do not recommend partial application of some restrictions of the Act to individual rivers without formal designation as either components of the System or as study rivers.

Section 3 requires consultation with appropriate State and local officials, including the Mariposa County Board of Supervisors, as required by section 3(d)(1) of the Wild and Scenic Rivers Act. This section restates existing requirements of the Wild and Scenic Rivers Act and is not needed.

Kern Wild and Scenic River (S. 247)

The Department of Agriculture recommends enactment of S. 247, if amended to delete the 17.8-mile segment of the North Fork of the Kern River from 5,600 feet above the Johnsondale Bridge downstream to the Kern-Tulare County line. We defer to the Department of the Interior for recommendations on that portion of the Kern River under its jurisdiction.

S. 247 would designate the North Fork of the Kern River as a Wild and Scenic River from its source in the Sequoia National Park to the Kern-Tulare County line. The bill would also designate the South Fork of the Kern River as a Wild and Scenic River from its source in the Inyo National Forest to the southern boundary of the Dome Land Wilderness in the Sequoia National Forest.

As illustrated on the display map, jurisdiction over both the North Fork and the South Fork of the river corridor designated by the bill includes the National Park Service, 27 miles; Forest Service, 124 miles; and private ownerships, 2 miles. The private ownership exists as small scattered tracts of private land as shown on the display map.

The North Fork of the Kern River corridor recommended for wild and scenic river designation in the bill has been studied by the Sequoia National Forest as required by P.L. 95-625. The approved Environmental Impact Statement and Study Report were transmitted by the President to the Congress on April 26, 1985. The study recommended designation of the 60.7 mile segment of the river from its source in Sequoia National Park to a point 5,600 feet upstream from the Johnsondale bridge. The 17.8-mile segment from 5,600 feet above the

Johnsondale bridge downstream to the Kern-Tulare County line is not recommended for designation as wild and scenic river.

The segment not recommended for designation contains a number of characteristics that, when taken together, led to the decision not to recommend designation. The stretch of river above the Johnsondale Bridge contains several mining claims with some potential for development. None, however, are currently active. The river segment from the Johnsondale Bridge to Lake Isabella has a county road paralleling the river. This is a heavily used recreation area, and there are 10 Forest Service recreation sites for camping and picnicking along this portion of the river. White water floating is a major activity, and the controlled boating permit system is at capacity during much of the summer. Southern California Edison also has a power diversion dam in this segment of the river. If this segment is designated as a wild and scenic river, any plans Southern California Edison may have for proposed expansion, major rehabilitation, and/or cogeneration would not be permitted. Designation of this segment of the river as a Wild and Scenic River would not have a significant effect on Forest Service management other than possible acquisition of scenic easements which may be needed on private lands south of the Johnsondale Bridge.

The bill would also designate the South Fork of the Kern River as a wild and scenic river from its headwaters to the southern boundary of the Dome Land Wilderness. This segment of the Kern was studied for its potential as wild and scenic river by the Sequoia National Forest in conjunction with their Forest planning process. The draft Forest Plan and Environmental Impact Statement was completed in December 1985.

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Of the 72.5 miles of the South Fork of the Kern River in the bill, the final Forest Plan will recommend 62.5 miles as wild, 7 miles as scenic and 3 miles as recreational. The entire corridor recommended for designation is within the boundaries of the Sequoia and Inyo National Forests. There are approximately 2 miles where private lands border one or both sides of the river.

The 20-mile segment of the South Fork of the Kern from its headwaters to the boundary of the Golden Trout Wilderness and the 1.2 mile-segment downstream from the wilderness boundary is recommended for wild classification. The next 7-mile segment, from a point 1.2 miles downstream from the Golden Trout Wilderness to the boundary of the South Sierra Wilderness, is recommended for classification as a scenic river. This segment has four-wheel drive access into and through the Monache Meadows area, along with several motorcycle trails. The Monache Meadows area also includes parcels of private land, cow camps, several cabins, and a small airfield.

The 14.3-mile segment through the South Sierra Wilderness is recommended for wild classification. The next 3-mile segment of river from the south boundary of the South Sierra Wilderness downstream to the boundary of the Dome Land Wilderness is appropriate for recreational river classification. This segment of river corridor contains 1-1/2 miles of paved road, a bridge, and a campground at Kennedy Meadows. The private land at Kennedy Meadows has two tourist-oriented businesses, a restaurant and a small general store. The last 27-mile segment of the river, flowing through the Dome Land Wilderness, fully meets the criteria for wild classification.

There is a proposed Federal Energy Regulatory Commission project along the South Fork of the Kern within the southeast corner of the Dome Land Wilderness. A small parcel of land was left out of the Dome Land Addition in the California Wilderness Act of 1984 to accomodate this proposal.

Designation of the South Fork of the Kern River as a Wild and Scenic River would have little impact on minerals, timber, or other resource values. No purchase of private lands or scenic easements would be necessary as a result of this bill.

In summary, while we normally prefer to complete our Forest planning process prior to making final recommendations on river designations, we recommend enactment of S. 275 as introduced, in lieu of H.R. 317. We recommend enactment of S. 247, if amended as described in our testimony.

Mr. Chairman, this concludes my formal statement. I will be pleased to answer your questions or provide any additional information the subcommittee may desire.

Senator BINGAMAN. Thank you, very much, Mr. Leonard.

We appreciate your testimony very much.

We will now take testimony from the witnesses that have come here from California to testify.

The first panel of witnesses we have will talk primarily about the Kern River, S. 247. Would Susan LeFever, Robin Little, Ivan Halperin and Eldin Hughes please come forward.

Let me ask if you folks would try to summarize your statements. If each of you can keep your comments to within 5 minutes, that would be very helpful to us.

Susan LeFever.

## STATEMENT OF SUSAN LeFEVER, FRIENDS OF THE RIVER

Ms. LEFEVER. Thank you, Mr. Chairman. My name is Susan LeFever and I am here as a representative of Friends of the River which works to protect free flowing rivers in the western United States. We have about 7,000 members who care about rivers because that is where they go to hike and fish and boat and swim.

For the last several years our major concern in California has been protection of the Kern River, Merced River and Kings River as part of the National Wild and Scenic River Systems.

I want to thank both Senators Cranston and Wilson for their tremendous leadership shown in this effort. While I am here to support both bills before you today, I will limit my oral testimony to the Kern River.

The Forest Service has recognized both the North and South Forks of the Kern as outstanding and remarkable rivers that are worthy of being designated as wild and scenic. I put up a map so you can see, the North Fork is the blue line on the left and the South Fork to the right. Going into Lake Isabella reservoir.

The Kern River is the closest wild river to Southern California and it is within a day's drive of one in ten Americans. So as you can imagine it has a lot of use. It provides a tremendous array of recreational opportunities as well as a variety of wilderness areas and wildlife habitat.

The South Fork flows through some of the largest meadows in the Sierras. In the corridor of the South Fork was found historically important ruins of the Tubatulabal Indians and on the nearby slopes the Pacific Crest Trail follows along most of the South Fork course.

The North Fork of the Kern whose headwaters lie on the slopes of Mount Whitney, is one of the steepest and swiftest rivers in America.

Hikers find spectacular waterfalls, abundant bird life and a rare opportunity to catch the river's golden trout. It is the lower miles of the North Fork Kern which are most popular for recreation because the road follows closely along the river in that area.

The river below the Johnsondale bridge is enjoyed by people of all ages and abilities. In fact, most of the area's annual 290,000 visitors spend their time along this stretch of river.

As the popularity of river sports is increasing along with population, so is the area popularity. Because of the rapid increase in visi-

tor use along the Kern, the Forest Service is facing an increasing management problem as well.

Increasingly, conflicts are arising between boaters and fishermen, between local residents and visitors and on and on. With congressional designation of the Kern River as a wild and scenic river the Forest Service will have both your guidance as to the importance of protecting the river and also the tools and ability to resolve the local conflicts and better manage the river.

The authors of this legislation in both the House and Senate have worked very hard to address the concerns of the local residents, particularly concerns about condemnation of land and the future uses of the land, have determined that because more than 95 percent of the land is publicly-owned there should be no need, no ability to condemn any land and also no need to do so. Fortunately, because the Wild and Scenic Rivers Act is a very flexible one, it has not been difficult to find solutions to the problems in a way that will both protect the existing uses of the river, allow for a wide range of development and agricultural uses and also continue to protect the river. The Kern is a national treasure and would be a tremendous addition to the National Wild and Scenic Rivers System. And I urge you to support this legislation.

[The prepared statement of Ms. LeFever follows:]

Thank you Mr. Chairman. My name is Susan LeFever, and I am here as a representative of Friends of the River, which works to protect free-flowing rivers in the Western United States. Our 7000 members care about rivers, because that is where they go to swim, boat, fish, and hike.

For the last several years, our major concern has been the protection of the Kern, the Merced and the Kings rivers as part of the National Wild and Scenic River System. I would like to thank Senators Cranston and Wilson for their leadership in protecting these magnificent rivers. I am here to support both the bills before you today, although I will limit my oral comments to the Kern River.

THE KERN RIVER

The Forest Service has recognized both the North and South Forks of the Kern as outstandingly remarkable rivers, worthy of being designated Wild and Scenic. The Kern is the closest wild river to southern California, and is within a day's drive of one in ten Americans. The Kern provides a tremendous array of recreational opportunities as well as an unusual variety of wilderness areas and wildlife habitat.

The South Fork Kern flows through some of the largest meadows in the Sierra. Its lush riparian forests support an incredible number of bird species, and is one of the most important breeding and nesting grounds of the endangered Yellow-billed Cuckoo.

In the South Fork corridor are found historically important ruins of the Tubatulabal Indians. On nearby slopes, the Pacific Crest Trail follows the river's path for most of its length.

The South Fork has been recommended for designation in the draft Sequoia Forest Plan.

The North Fork Kern, whose headwaters lie on the slopes of Mount Whitney, is one of the steepest and swiftest rivers in North America. One of the most rugged whitewater rafting runs in the country begins at the forks of the Kern, and is a three day trip through the wilderness. Hikers along the North Fork River trail find spectacular waterfalls, abundant birdlife, and a rare opportunity to catch the river's Golden Trout.

But, it is the lower miles of the North Fork which are most popular for recreation. Because of its excellent road access, the river below the Johnsondale bridge is enjoyed by people of all ages and abilities. In fact, most of the area's annual 290,000 visitors spend their time here. As the popularity of river sports increases, so does the river's popularity.

MANAGEMENT PROBLEMS

Because of this rapid increase in visitor use along the Kern, the Forest Service is facing an increase in management problems as well. Increasingly, conflicts are arising between boaters and anglers, and between residents and visitors. With Congressional designation of the Kern as Wild and Scenic, the Forest Service will have both your guidance as to the importance of the river, and the tools to resolve local conflicts and better manage the river.

The authors of this legislation in both the House and the Senate have worked hard to address the concerns of property owners and nearby residents. Fortunately, the Wild and Scenic Rivers act is a flexible one, which both protects existing uses on a river, and permits a wide range of development and agricultural uses.

The Kern is a national treasure, and would be a tremendous addition to the National Wild and Scenic River System. This legislation is badly needed, and I urge you to support S. 247.

THE MERCED RIVER

The Merced River has an amazing number of outstandingly remarkable values which make it both eigible and suitable to be a pert of the Wild and Scenic River System. Within the National Park, Yosemite Valley is famous worldwide for its geologic features, such as El Capitan and Half Dome. Below Yosemite Valley, the river enters a narrow canyon, along which most of the park's visitors enter.

Both the Main and South Fork Merced provide important habitat for spotted owl, dear, mountain lion, and raptors. Calm stretches of the river attract common mergansers and mallards.

The Merced offers year-round fishing opportunities. Whitewater boating on the Merced has grown ten-fold in the last ten years. In a California state study of visitors to the area, 4 out of 5 people came to visit the river itself, and not to visit Yosemite.

Mariposa is a small county, and its economy is based largely on tourism provided by the Merced and Yosemite. The proposed El Portal Hydroelectric plant threatens both the river and the local economy. The project has wide opposition within the area, and throughout California. It is also opposed by the California Energy Commission and the State Attorney General's Office.

The lower 8 miles of the Wild and Scenic Merced River as proposed by our Senators, is an outstanding stretch of river which must be protected from water development, land development and privatization of federal lands.

We strongly support passage of S. 275, and urge you to move this bill quickly.

Senator BINGAMAN. Thank you, very much, I appreciate that. Robin, you are our next witness.

## STATEMENT OF ROBIN WYATT LITTLE, KERN VALLEY WILDLIFE ASSOCIATION AND THE DEMOCRATIC CLUB OF KERN RIVER VALLEY

Ms. LITTLE. Good morning.

Senator BINGAMAN. Good morning.

Ms. LITTLE. My name is Robin Little and I have traveled here from Kernville, California. Kernville is located at the base of the southern Sierra Nevada Mountains and the beautiful Kern River flows through our town.

I am here today on behalf of the Kern River Valley Wildlife Association and Democratic Club of the Kern River Valley and as a private citizen. We are all in support of S. 247.

It is our feeling that a wise management plan for the Kern River as mandated by this legislation will ensure environmental sound guidelines for the protection of the river, its wildlife and for the future developmental projects along the river corridor.

We believe the integrity of the Kern River must be protected in order that our valley and all who recreate here will continue to benefit from that which this river and surrounding wild lands give to all of us and that is an enhancement of life's quality.

The Kern County Economic Board of Trade has projected Kern Valley as the fastest growing part of the county within the current decade.

The Forest Service tell us in 1982 the 17 miles of the river from Johnsondale bridge to the line logged in 290,000 visitor days.

These facts help us appreciate the growing impact on our valley's tourist based economy and potential for abuse. The issue of flood control has been raised on the upper Kern River.

It is our opinion if this issue is legitimate then we need to see efforts to change existing zoning and moritorium on all development for areas within the alleged flood corridor. We see neither.

It is our understanding the Army Corps of Engineers and California State Water Resources Board have conducted extensive studies relative to flood control on the upper Kern and have found these projects to be economically and geologically infeasible. We do respect the findings of these agencies.

We see this legislation as our opportunity to guarantee the legacy of beauty that this magnificent river and surrounding area can provide for generations to come and it is our hope that this committee shares our feelings.

One additional comment I would like to make is that there is a consensus of those who support this legislation that we would like to recommend that a citizens' developmental review committee be formed to work with the Forest Service in developing the management plan for the river.

We would like to see this committee include representatives of private property owners, miners, rafting enthusiasts, both commercial and private, environmentalists, business people, fishermen. The function of the committee would be to participate in the research of the management plan and then for ensuing projects that

would affect the river. We feel this would be the way to could a less our value and manage our river.

I thank you, very much for allowing me to articulate our support.

[Additional materials submitted by Ms. Little have been retained in subcommittee files.]

Senator BINGAMAN. Thank you, very much.

Mr. Halperin.

## STATEMENT OF IVAN HALPERIN, ATTORNEY

Mr. HALPERIN. Good morning, Mr. Chairman, I am Ivan Halperin from Los Angeles, and appreciate the privilege of being here today.

I am here in two capacities, besides being a hiking enthusiast and familiar with the river itself, my law firm has the pleasure of representing Ed Alexander, one of the three existing private property owners along the river. Mr. Alexander operates a mining claim known as Durwood Camp, a use that goes back perhaps to the turn of the century.

It was an area intensely difficult to reach and even today requires off road driving and a good hour's hike to the river, itself.

I would like to point out to the committee the camp represents a natural place for city people such as myself. It's one of the few places I am able to go to within a day's ride and not too long walk and not find a telephone. The people who come through here represent professional and proper use of the river.

Existing Durwood Camp and its small mining operation are fully compatible with all existing uses contemplated. Accordingly, on behalf of Mr. Alexander and on behalf of myself, I would urge the committee's adoption of the bill relating to Kern River. Thank you.

Senator BINGAMAN. Thank you, very much.

Mr. Hughes, you are here to represent the Sierra Club.

## STATEMENT OF ELDIN HUGHES, THE SIERRA CLUB

Mr. HUGHES. Yes, I am Eldin Hughes, we are the largest chapter in the Sierra Club, 48,000 members.

Senator BINGAMAN. That is a big chapter.

Mr. HUGHES. It is.

Senator BINGAMAN. I think that is about as many people as we have got in my State.

Mr. HUGHES. We are part of the user group. The Colorado River through the Grand Canyon drops about 12 feet per mile. It has rapids because it has pools and then drops. The American River near Sacramento drops about 20 feet per mile. The Merced River, about 30, the Tuwalamee, about 35, the Kern River, 65 feet per mile.

In the gauntlet run it is dropping 200 feet per mile and it is runable. This is awesome white water. This is some of the best white water that exists in the world. This is a treasure.

This white water exists within 2 hours' drive of 15 million people. This is something to be saved. I hope it will be designated wild and scenic.

I want to speak specifically to the 17 miles below the Johnsondale bridge. If you are going to launch a raft you surely don't want to launch at the forks of the Kern for your very first run of the year. You are 3 days away from help. You want practice before you go down fifth class rapids.

By the way, rapids are graded 1 through 6, 1 being moving flat water, 6 unrunable, 5 being the highest runable stretch. People dispute it, that is pretty much agreed.

Therefore in the 17 miles you get to start on the Fairview run, classed 2 and 3, and practice. Then you may go to the Limestone Run, which is class 4. You reach a rapid called Joe's Diner. If you run on the left side that is class 3, if you run on the right side of the river, that is class 6. I have done both.

Senator BINGAMAN. Class 6, you wind up in the water.

Mr. HUGHES. You are not in your raft when you get out the other side, I can assure you. None of us were in the raft when we got out the other side and we all preceded the raft.

It got caught there quite awhile. It spins, throwing everybody.

That is why this stretch should be protected. It's where you practice. It's where you can get on and off. In a day's time you can drive up and work out and then you can go for the forks. It's a river to be protected. Thank you.

Senator BINGAMAN. Thank you very much for your statement. We appreciate it.

We have one other panel that wants to testify on the Kern River, so I will dismiss this panel and ask that Bill Inskeep——

Oh, yes, before the next panel comes up, I didn't see Senator Wilson. He has arrived and we would like to have his statement now if we could.

## STATEMENT OF HON. PETE WILSON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator WILSON. Good morning.

Senator BINGAMAN. We have already heard some glowing descriptions of the proposals on both the Kern and Merced River and we appreciate your being here to testify.

Senator WILSON. Thank you very much, Mr. Chairman. This is not the first time that I have broached the subject of river protection with this committee.

In the 98th Congress I became intimately acquainted with the issue of resource conflicts upon our nation's rivers, championing the cause as to the Tuwalmee River. That fight pitted proponents of a proposed major hydroelectric project against those who determined the higher and better use for the Tuwalmee was its preservation for future generations to use and enjoy.

Even in making the fight to save the Tuwalmee, it was not I think anybody's intention that all future water resource development in California should be shut down, but the fact is that most if not all of the easy sites have already been developed.

What remains at the proposed Auburn Dam on the American River for example are projects whose economic viability rise and fall with the price of oil.

Marginal economics of new water resource development has forced Californians to rethink the way in which we should utilize scarce national resources.

Push to build and develop in California is slowly being replaced by the push to conserve and more efficiently use what we already have.

Some will tell you this new emphasis on conservation is a product of the merging environmental conciousness of the last 15 years. And it is to a considerable degree. But others will simply point out that it has become cheaper for entities such as the Los Angeles metropolitan water district to engage in water trading with agricultural water districts than to build new dams and reservoirs.

In either case the result is really very much the same, developing every last stream and river in California no longer makes sense from either an economic or environmental perspective.

There are some projects that are still worth building. I have already mentioned the Auburn Dam. But on many river stretches we have reached the point where the loss to the environment outweighs any marginal gain from water and power development.

Such is the case with the Merced River. This spectacular river flows out of the famed Yosemite Valley winding its way from the 12,000 foot peaks of the Clark Mountain range to the serene waters of Lake McClure only 800 feet above sea level in the Sierra Nevada foot hills.

It's enjoyed by over a million visitors each year, they come to witness the abundant national treasures of the Merced Canyon which include a wealth of vegetation and array of wild flowers which embrace the canyon walls, diverse wildlife population which thrives in the region, recreational opportunities, especially the fishing and as I think you were just hearing, the rafting, on the Merced River's challenging white water.

Because these people come to the canyon they provide an important boost to the local economy. But as was the case with the Tuwalmee River there are resource conflicts on the Merced River. A proposed hydroelectric project would have built diverted water from the river on the town of El Portal 500 feet west of the Yosemite Park boundary.

The effect of this bill would be to prohibit the construction of this small project. But I would like to make clear this was not the reason I introduced this legislation. I support wild and scenic status for the Merced River because I firmly believe that this river is of much greater value to the people of California and the nation as a source of natural beauty than as a source of an additional 22 megawatts of power.

The National Forest Service also shares this view. This bill reflects the draft recommendations of the Forest Service as included in the draft environmental impact statement for the proposed forest land and resource management plan for the Sierra National Forest.

These recommendations represent the culmination of an extensive study conducted by the Forest Service, Bureau of Land Management and National Park Service. After carefully weighing the development potential of the river against its other outstanding

values these agencies agree that the Merced River belongs in the National Wild and Scenic Rivers System.

This bill is supported by area businessmen, Merced Canyon Committee, many local residents and many others from a cross California who enjoy the river.

I would like to commend the Merced Canyon Committee and others who have committed countless hours toward the aim of protecting this very special resource.

We are also here today to discuss wild and scenic designation for the North and South Forks of the Kern River. The Merced River and Kern River are alike in that they both find their source in the spectacular Sierra Nevada. Unlike the Merced River there are no existing conflicts on the Kern River.

The North Forks of the Kern is one of the swiftest in the nation flowing through Sequoia National Forest and golden trout wilderness.

Upon completing wild and scenic studies on the North Fork the Forest Service concluded the river possessed "outstandingly remarkable" aesthetic values and recommended designation for all but 17 additional miles included in this bill.

Although no formal study has been undertaken on the South Fork, Sequoia national forest has similarly—excuse me, national Forest Service has similarly recommended wild and scenic status in its draft plan management plan.

Mr. Chairman, the Kern River bill has strong support in California. Thousands of fishermen, hikers and rafters enjoy the Kern.

This bill would provide Southern California with its only designated wild and scenic river. Because it provides for a comprehensive management plan for the river, it should help ease the problems arising as a result of an expected increase in recreational use.

It will also protect the Kern from development pressures likely to arise due to population growth. In fact the Kern County Economic Board of Trade has projected the Kern River valley will be the fastest growing area within Kern County in the coming years. This growth will almost certainly contribute to increased use of the Kern River.

I am aware certain local land owners on both the North and South Forks are concerned that this bill would encroach on their property rights.

I believe that their fears are unfounded. I have been in contact with the Forest Service on the matter and have been assured private land owners may continue existing uses being undertaken on their lands at the time the river is designated wild and scenic.

This bill will not allow the federal government to confiscate private lands and will allow future developments and uses of the river as long as they do not inhibit the free flowing nature of the river nor detract from its outstanding values.

Questions have also been raised as to the potential effect this legislation would have on the existing Southern California Edison diversion facility on the North Fork of the Kern. I would urge the committee to pursue whatever means necessary to ensure continued operation and maintenance of this facility at existing levels.

Mr. Chairman, both the Kern and Merced River exemplify the rivers the Wild and Scenic Rivers Act was designed to even protect.

We need to protect the rivers now before pressures build and develop. Becomes too great to resist.

California is expected to top 32 million residents by the year 2000. That may be a conservative estimate. It is important to protect now what tomorrows generations are entitled to enjoy.

As a final point I would also like to observe Congress is considering the fate of another outstanding California river, the King River. Although King River legislation is not before the committee in today's hearing, I would hope the committee would give this legislation the consideration it deserves.

The compromise which I support has been reached on this particular issue and I sincerely hope it will be supported which by this committee.

Again let me thank you, Mr. Chairman, and the other members of the committee for holding these hearings. I look forward to working with you to secure the passage of this legislation.

Senator BINGAMAN. Thank you, Senator Wilson. I think that is an excellent statement.

We do have three additional panels of witnesses from California who will testify, one on the Kern River, one other panel and then two on the Merced River. So we will excuse you to do whatever other obligations you have unless you would like to, if your schedule permits, participate, we are glad to have you do that.

Senator WILSON. Mr. Chairman, thank you. That is a kind offer and one I would be delighted to accept. But unfortunately, as you have suspected, I do have to be about three other places. So I thank you.

Senator BINGAMAN. Seems like we always schedule all committee hearings at the same time in this place.

Senator WILSON. That is true. I heard yesterday the Rules Committee was thinking of computerzing a schedule so that they can avoid conflicts. I told them not to bother in my case because I knew my three committees all meet all at the same time all the time. Thank you.

Senator BINGAMAN. Thank you. Let's now have Bill Inskeep, Tom Gilfoy and Jackie Anderson. If those three people are here, perhaps you could come forward, please.

Let me again indicate to each of you please try to summarize your comments and keep them less than 5 minutes if at all possible.

Is Bill Inskeep, Bill, why don't you be first since that is the order in which I have you on this list.

## STATEMENT OF BILL INSKEEP, CITIZENS FOR CHOICE

Mr. INSKEEP. Thank you for allowing me to come here today and testify before this committee. I was asked to come here by Mr. and Mrs. Johnnie McNally. Johnnie would have been here, he is the largest property owner but his wife is in the hospital, she has suffered a stroke. So I am kind of standing in for him.

Last year the people of Kern River Valley got extremely upset over this legislation because back in the early 1980s when the Forest Service did their environmental impact study, through public input allowing the local citizens to be involved in public

hearings through their concern a boundary was set up 5600 feet above the Johnsondale bridge.

We feel that by having these public hearings at the local level, allowing the local citizens to participate in the hearings, that that was the proper way to go about it and that is the way government should work.

We woke up last year, and the legislation had another 17 miles added onto it, down to the Kern-Tulare County line. That is what really started the opposition of this issue. We went to the Kern County board of supervisors. They reviewed the legislation, they opposed the lower 17.8 miles. Tulare county opposes the whole legislation.

Through my communications with Congressman Bill Thomas he opposes the lower 17.8 miles. Senator Don Rogers, state senator for the 16th district which represents our area, he also opposes the lower 17.8 miles.

I spoke on the phone last week with some of the commercial rafting outfitters and went back to Congressman Bill Thomas to verify this information and they also told me that they can't see supporting that lower 17.8 miles of the river.

It's being well managed at this time, the area is not suitable to build any dams or anything like that. The only mining that is going on is recreational. And we feel that in the good spirit of compromise, because right now you get neighbor fighting neighbor over this issue back where I come from.

Like right now, I am testifying to oppose it, my neighbor testified to support it. I think in the spirit of compromise and through the environmental impact study, the lower 17.8 miles should be dropped.

I would also like to say I was contacted by a Don Riffle, who is a property owner on the South Fork. The South Fork goes through his property.

He wanted me to tell the committee that he would like to see a formal study done on the South Fork before it be included in the wild and scenic system.

Again, I would just like to say that we feel the committee should stand by the recommendation and report done by the Forest Service. A lot of time, money and people's feelings went into that report. This growth pattern you hear talk about in the Kern River Valley is not going to happen in that area.

The town of Kernville is surrounded by forest land. You are going to see the big growth pattern down in Lake Isabella which is a way from the area in question.

I presented some pictures to the committee which aren't very pretty of what happened during the 1966 flood. We feel that if the 10 miles above the Johnsondale bridge is going to be included that some type of study should be done to see if any corrections could be made to protect the people of Kernville from the flood situation which they have suffered already. That 10 mile area would be the only area to do that in.

All studies that I can find were pertaining to hydroprojects up in that area, and not just flood control.

So I am not saying a dam is the answer, I don't know. But we feel a flood study definitely needs to be done to protect the people from Kernville.

Thank you.

Senator BINGAMAN. Thank you very much, I appreciate that.

Tom Gilfoy, why don't you go ahead, please.

**STATEMENT OF TOM P. GILFOY, ASSISTANT GENERAL COUNSEL, SOUTHERN CALIFORNIA EDISON CO.**

Mr. GILFOY. Mr. Chairman, I am Tom Gilfoy, Assistant General Counsel of the Southern California Edison Company.

I would like to observe preliminarily that I enjoyed the comments by Mr. Hughes and his description of the Kern River. I have been on those raft trips and I recall that when we started the trip the upper end of the run, called The Forks of the Kern, where the trip began, I asked one of the professional rafters how many rapids there were on that particular stretch of river and he said just one.

That is pretty much it, one rapid all the way down. When you get out the other end they give you a T-shirt that says Class 5 and Still Alive.

So it is a spectacular river, and certainly at least that stretch of the Kern River lends itself to the designation proposed by the bill.

But the fact of the matter is that there is not a free flowing river on the lower stretch, the part that was just spoken about. The Edison Company has a structure on that stretch of the river that diverts water into its system of canals and tunnels that goes down to its power house. You can't raft over the dam.

We are not opposed to the legislation as such if it can be amended in a way to allow for continuation of our facilities.

Senator Cranston when he spoke indicated he supported the bill without amendment. Senator Wilson indicated perhaps a more compromising attitude towards it and indicated he thought whatever needed to be done to protect the continuation of the Southern California Edison Company hydroplant should be done.

Basically the Wild and Scenic Rivers Act only prohibits new construction, it doesn't prohibit existing construction. That is, facilities that are already in place. The difficulty is over what is or is not new construction.

The courts, in a recent case last year, construed new construction in a manner that was prohibitive of the installation of a new electric line to an already existing power plant. That effectively made the operation of the power plant impossible.

Our facilities through the years have washed out in floods, and if you have this kind of a hard nosed construction of what is or is not new construction we would not be able to reconstruct the plant, because construction is prohibited by the Wild and Scenic Rivers Act.

There are other things of that kind that concern us, and so I am here with the panel that is opposed to the designation of at least this stretch of river as wild and scenic, but our position on that is neutral if the bill can be amended in a way that would protect our facilities.

I have attached to my formal statement that was submitted a suggested amendment that would accomplish this purpose, and I

would like the committee and you, Mr. Chairman, to very seriously consider adding our amendment to the bill. It would certainly enable us to remove our opposition to the bill.

Thank you, very much.

[The prepared statement of Mr. Gilfoy follows:]

STATEMENT OF SOUTHERN CALIFORNIA EDISON COMPANY
REGARDING S. 247

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS OF THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

Room 366, Dirksen Senate Office Building

April 23, 1987

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE:

My name is Tom P. Gilfoy. I am an Assistant General Counsel at Southern California Edison Company ("Edison") where my responsibilities include, among other things, Federal Energy Regulatory Commission licensing, water rights, and various other matters relating to hydroelectric facilities. I am submitting this statement and appearing before your Subcommittee today because of concern that S. 247's designation of a part of the North Fork of the Kern River as "wild and scenic" may interfere with Edison's hydroelectric project on the same stretch of river.

Edison is an investor-owned, electric utility providing electric service in a 50,000 square mile area of Central and Southern California. This area, which has a population of more than nine million people, includes some 800 cities and communities.

Most of Edison's generating capacity is from oil- and gas-fired generating units. A significant part is also from coal and nuclear generation. Although only about six percent is from hydroelectric generation, it is the very fact of this small proportion that makes it so important for Edison to try to keep all of its hydroelectric resources intact for its customers. Hydroelectric generation is a clean, inexpensive way of providing electricity without polluting the air or using any of the nation's nonrenewable resources.

The hydroelectric project affected by S. 247 began operation in 1921 and has been contributing to the local economy and providing a clean source of reliable energy to Edison

customers throughout Southern California for over 65 years. The project is commonly referred to as Kern River No. 3 and is licensed by the Federal Energy Regulatory Commission as Project No. 2290. It has a capacity of 36.8 megawatts and, in an average year, generates about 188,922 megawatt hours of electricity. That is enough electricity to serve a community of approximately 18,400 people for one year.

The major feature of the project located within the area to be designated "wild and scenic" by S. 247 is a diversion dam across the River. The dam diverts water into a network of tunnels and flumes about fifteen miles upstream from the powerhouse. Although the powerhouse and other major electrical features of the project are outside of the proposed "wild and scenic" area, none of the project can operate without the water diverted by the diversion structure.

Notwithstanding the fact that the existing diversion structure interferes with the free flow of the river and effectively prevents rafting downstream, it has apparently been determined that this is not a sufficient reason to disqualify this section of river for eligibility for inclusion in the national wild and scenic rivers system. Although designating a stretch of river with this kind of development already existing may be subject to question (after all, the "wild and scenic" designation is supposed to preserve rivers in a "free flowing condition"),[1/] S. 247 should, in our judgment, at least be amended to make it clear that there is no intention of

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1/ Public Law 90-542 Sec. 1(b).

interfering with existing hydroelectric operations. A suggested amendment has been attached to this statement that would accomplish this purpose.

In fact, it is generally conceded that the restrictions of the Wild and Scenic Rivers Act are not intended to interfere with the continuation of existing development and that such restrictions are only intended to prevent new construction. However, reasonable minds can and have differed over what is or is not new construction. For example, in a case decided last year by the United States Court of Appeals[4/], it was held that the construction of a transmission line to an existing hydroelectric project was prevented by the Act's prohibitions against new construction. This interpretation effectively prevented the restart of an idle hydroelectric project even though the construction of the primary hydroelectric facilities on the river had preceded the "wild and scenic" designation by many years. This kind of a hard-nosed interpretation of "new construction" by the courts is an indication of the kind of problem we could be faced with unless S. 247 is clarified. For example, in the past, parts of our project have had to be reconstructed as the result of being washed out by severe floods. Our amendment is, among other things, intended to assure that our project can be reconstructed if this kind of flooding happen agains.

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[4/] Swanson Mining Corp., et al v. FERC, 790 Fed. Rptr. 96 (1986).

Quite frankly, we are also very concerned that a "wild and scenic" designation could, without clarification, be a potential source of future difficulty with the Federal Energy Regulatory Commission when our current license for the project expires six years from now. These days it would not exactly be unexpected for someone opposed to hydroelectric development to seize upon any opportunity to oppose the relicensing of our project. However, we do not believe that it is this Subcommittee's intention to provide such an opportunity by its "wild and scenic" designation and, accordingly, our amendment also deals with this problem.

Our concern about the effect of a "wild and scenic" designation on existing hydroelectric facilities is not unique. In fact, there is Congressional precedent for dealing with the problem. Language similar to what we propose was used to protect hydroelectric development on the Cache la Poudre River in Colorado when that river was added by Congress to the national wild and scenic rivers system last year.[1/]

Thank you, Mr. Chairman, for the opportunity to appear before your Subcommittee and make these remarks.

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[1/] 16 U.S.C. §1274(56) (See discussion regarding the reconciliation of hydroelectric and wild and scenic interests contained in Report 99-354 accompanying S. 1819).

AMENDMENT TO S. 247

[add after "river", line 12, page 12]

The inclusion of this designated segment of the North Fork Kern River shall not interfere with the operation, maintenance or reconstruction of any existing public utility development or facilities located on such segment of river including but not necessarily limited to the existing hydroelectric development identified as Federal Energy Regulatory Commission Project No. 2290, nor shall such inclusion be used in any federal or state proceeding, whether concerning licensing, relicensing, permitting, or other action, as a reason or basis to prohibit continued operation, maintenance or reconstruction of any such existing public utility development or facilities.

Senator BINGAMAN. Thank you, very much.

Jackie Anderson with Sierra Enterprises. We are glad to have you here.

## STATEMENT OF JACKIE ANDERSON, PRESIDENT, SIERRA ENTERPRISES

Ms. ANDERSON. Thank you, Mr. Chairman. We have all traveled a long way, this California delegation. We have spent a long time since the Forest Service first started the study on the wild and scenic.

We have spent a long time thinking about it, scraping about it, writing about it. Here we are, a long way from home on what we hope is the end of a journey.

It would seem to me in summary, Mr. Chairman, that, by and large, there is probably more room for compromise here and agreement than dissension.

I doubt that of the people who have spoken here, that you can find anyone violently opposed to saving a river, protecting a river, and I speak specifically of the Kern.

With all due respect to the Sierra Club, anyone who chooses to practice on the Kern River in any kind of water sport ought to reconsider. We drowned 136 people since, when, 1950-something, 13 of them last year, Mr. Chairman. The Kern River isn't designed for practicing. We humbly submit rafters and kayaks, who want to practice, that they go to the American.

Nevertheless, the bill submitted by Senator Cranston, S. 247, as we point out in our formal testimony submitted to you in writing, is basically okay. That is, there are very few residents in the valley who will take violent objection to it.

What we object to is the last 17 miles going through our back yards and living rooms, if you will.

Granted, there is nothing specific in the bill that says this land can be condemned and that they can take my living room, for instance—I live on the Kern River—and use it as a lunch site for rafts or whatever.

But it does leave a question open by way of easements, by acquiring easements. The bill, read carefully, acknowledges that funds should be allowed for these purposes.

Going back to square one is always a good idea when there is controversy.

In this case it would be the Forest Service's long study, over 200 pages worth on the North Fork wild and scenic river. The final environmental impact study is well over 200 pages long. We have spent over $200,000 to date putting it together.

At that time there were over 171 verbal and written responses to the study, Mr. Chairman, held right in the Kern River valley.

We had many public meetings concerning this issue. The Forest Service never once deviated from their recommendation that the Kern River be declared wild and scenic, the North Fork of the Kern River.

What they did say and our testimony here doesn't show is that they would like to see the 17 miles from the Johnsondale bridge to Lake Isabella deleted for obvious reasons. People live there.

It is not wild and scenic, it is not free flowing. It has Southern California Edison's development on it, it has camp grounds galore. It has night clubs and private residences. And, Mr. Chairman, keep in mind that we live in a bowl with a lake in the bottom. We can't develop a great deal more than we already have in the area we are talking about.

As Mr. Inskeep pointed out, most of the development in the Kern River Valley must by necessity move away from the river.

In summary I would like to thank you very much for your testimony and your consideration and we do sincerely hope your committee will take a long look at the public testimony given here today and also the written testimony that we don't have time to go into today.

Thank you very much for your time.

[The prepared statement of Ms. Anderson follows:]

WRITTEN TESTIMONY ON SENATE BILL 274

Addition of the Kern River to the National Wild and Scenic Rivers System

SENATE
SUBCOMMITTEE HEARING
NATIONAL PUBLIC LANDS, PARKS AND RECREATION

APRIL 23, 1987

Testimony submitted by Jackie Anderson, President

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REPRESENTING:

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James Store, Clint James, Owner, Kernville, CA 93238

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Kern River - Lake Isabella Board of Realtors, Jane Rogers, President

Lake Isabella Chamber of Commerce, Miriam Wilson, President

Kern Valley Resource Conservation District, Dale Creighton, President

Sierra South, Thomas Moore, Vice President, P.O. Box 4, Kernville, CA 93238

A long time ago Senator Mike Mansfield said there are only two kinds of people: Simplifiers and Complicators.

He was right then and his observation is equally sound today.

The concept of the Wild and Scenic Rivers Act System Law of 1963 was simple and pure as the driven snow. In essence Congress recognized that rivers in their natural state possess values worthy of protection.

In 1968 the Wild and Scenic Rivers Act provided a means to implement this policy by establishing eight rivers as the initial components of the Wild and Scenic Rivers System and identifying 27 other rivers for study as potential additions.

Simple.....non-controversial.

In 1978 the 83-mile stretch of the North Fork of the Kern River was identified for study as a possible candidate for Wild and Scenic designation through an amendment by Congress to the Wild and Scenic Rivers System Law of 1963. The amendment was passed 15 years AFTER the initial Wild and Scenic Rivers System law.

The U.S. Forest Service was mandated by Congress to study the North Fork of the Kern River. They did. In August of 1982 the Final Environmental Impact Statement and Study Report on the North Fork of the Kern River was completed.

The Forest Service Study comprises over 200 comprehensive well-done pages. Over four years of time and money (about $175,000) were spent putting together one of the most detailed studies ever submitted on the North Fork of the Kern River.

The Rationale from the final Environmental Impact Study Report on the North Fork Wild and Scenic River Study is included here, loose leaf.

Suffice to say, the Alternative chosen was the result of compromised agreement achieved through years of study, derived from a wide spectrum of individual and collective concerns. With a great sigh of relief, the Final EIS was proudly submitted in August of 1982.

Still uncomplicated and remarkably simple.

It is now April of 1987.....four and one half years later.

Reading Senator Alan Cranton's Bill Number 247 clearly demonstrates the complicators have taken over the issue of the Wild and Scenic Rivers Act as it pertains to the North Fork of the Kern River.

The complicating proposal would declare some 17 miles of the Kern's North Fork Wild and Scenic. It isn't. The North Kern from the Johnsondale Bridge punctuated all the way to Isabella Lake by a much earlier designation... .....civilization. Three bridges, two resorts, many campgrounds, private and public, private dwellings of all sorts and two power plants complete with dam and flume are but some of Man's permanent imprints along the North Kern River south of the Johnsondale Bridge. SB 274 skillfully complicates the obvious by including this "non-wild" segment of the North Kern.

This 17 mile section of the North Kern River simply does not qualify as Wild and Scenic. Futher more, the Forest Service FEIS DOES NOT INCLUDE THIS SECTION OFRIVER IN ITS RECOMMENDATION.

Ironically, SB 274 futher complicates what began as a simple concept by including the South Fork of the Kern River. This segment WAS NEVER STUDIED as a possible candidate for inclusion in the Wild and Scenic System. An Enviromental Impact study was not done on the South Fork because it shares the name of the Kern River almost entirely by association rather than fact.

The South Fork of the Kern River is quite simply,more a tributary t an a river. A goodly and critical portion of this segment runs through priva ly owned agricultural lands not to mention some ranch headquarters of landowners who have homestead rights and land titles back to the early 1800's. If SB 274 includes North Kern River developments, it is unlikely the South Fork ranch sites will be excluded for long.

Keeping in mind the 1978 Congressional mandate ordering the Forest Service to study the North Fork of the Kern River for possible inclusion into the Wild and Scenic Rivers System.....there was ABSOLUTELY NO INTENT to include any part of the South Fork in that mandate. The simplifiers only wanted to know how much, if any, of the North Fork Kern River might qualify for a Wild and Scenic designation.

The Complicators have now tossed aside the Forest Service's long studied recommendation in favor of a Complicators favorite concept: "More is bound to be better." Further, SB 274 adds a segment of waterway, the South Fork of the Kern, without benefit of an Environmental Impact Study to toss aside.

Much like the proverbial stew.....this entire Kern River Wild and Scenic controversy has been the result of too many complicating cooks adding unnecessary ingredients.

By going back to Square One, and retrieving the Forest Service's recommendation that the North Fork of the Kern River be declared Wild and Scenic from 1500 feet above the Johnsondale Bridge to the Headwaters, Congress can be assured its mandate is fulfilled.

By accepting the U.S. Forest Service's objective and non-partisan recommendation, we are once again establishing the sterling merit of original intent. Doing what we agreed to do in the first place is simply a matter of common sense.

Doing what we agreed to do in the first place is uncomplicated and honorable.

Thank you, Jack Nunn

FINAL ENVIRONMENTAL IMPACT STATEMENT
AND STUDY REPORT

NORTH FORK KERN WILD AND SCENIC RIVER STUDY
Tulare and Kern Counties, California

August 1982

Lead Agency: U.S. Department of Agriculture - Forest Service

Cooperating Agencies:

U.S. Department of the Interior
National Park Service

State of California
Department of Natural Resources

Responsible Official: R. Max Peterson, Chief
Forest Service - USDA

For Further Information Contact: James A. Crates, Forest Supervisor
Sequoia National Forest
900 W. Grand Avenue
Porterville, CA 93257
(209) 784-1500

Abstract: This Final Environmental Impact Statement and Study Report describes and evaluates five alternatives with respect to the possible inclusion of the North Fork Kern River in California into the National Wild and Scenic Rivers System. Alternative B, which recommends inclusion of approximately 61.5 miles of the river into the National System, is the preferred alternative of the Forest Service. Rationale for this recommendation is given, plus documentation of the process used to determine the river's eligibility.

Date FEIS made available and notice
printed in Federal Register:

73-455 O - 87 - 3

## VI. THE PREFERRED ALTERNATIVE

Alternative B is the preferred alternative. It offers the most desirable balance of uses which will protect natural values and Outstandingly Remarkable features while allowing continued economic growth.

The decision to change the selected alternative from that shown in the Draft EIS (Alternative A) came as a result of the public response and new information which was received during the 90-day public comment period. Nearly all of the response dealt with issues related to river Segments 3 and 4, primarily 4. Recommendations for Segments 1, 2, and 5 were not controversial. Dispute over the DEIS recommendation to designate Segment 4 surfaced strongly at the public meeting in Kernville on December 12, 1981, and continued in the written responses we received. The public criticized Designation of Segment 4 on the basis that conlfict over private land ownership, mining, power development, ranching and recreation use would occur.

The public made it clear that the Draft EIS had not adequately described the mineral resources of the study area, and that presented serious omissions in the assessment of the alternatives, particularly as regards Segment 4. As a result, a complete re-working of the current minerals situation and future potential was undertaken. Major revisions are evident throughout the Final EIS and show graphically in the Economic and Environmental Account. One of the factors in the selection of Alternative B is the significant effect designation would have on mineral activities in Segment 4.

To a lesser degree, the assessment of fisheries, recreation, socioeconomics, timber and grazing were revised and supplemented as a result of public comment and new data submitted.

Alternatives C and D were least favored by all the respondents. Both of these assumed construction of the Elephant Knob Reservoir and neither would preserve the free-flowing characteristics of the Kern River. Keeping the Kern in a free-flowing condition seemed to be the single most important concern of those who favored some form of designation.

Alter[illegible] was favored by most respondents because it would provide statutory p[illegible]ction for the greatest portion of the Kern River and would best preserve natural scenic and cultural values. Even though no designations are recommended in Alternative E, the foreseeable results are very similar to Alternative A, except in Segment 4. Here, Alternative A would have a substantial negative impact on various potential develop. nts. Alternative E would allow such developments under current control regulations, with attendant employment increases and economic growth in the local and regional economics.

Thus, the recommendation for Segment 4 emerges as the focus for the preferred alternative. Alternative B, which would leave Segment 4 undesignated, has economic and environmental advantages in a combination not offered by any other alternative. The Kern River would remain in a free-flowing condition since there are no new projected water developments in Segment 4. Alternative B would institute an additional cloak of protection on all outstandingly remarkable values found in the study corridor except for the unidentified salamander in Segment 4. Because of the specific, localized habitat of this species, it can be properly protected by special measures without designation of a 17-mile segment of river. Conceivably, the additional recreation caused if this segment were designated could work to disadvantage and result in real adverse impacts to the salamander. The natural resources of Segment 4 do offer the greatest potential of any of the segments to be utilized in a manner which will enhance economic growth. Public concerns over the implications of designation on private land ownership and use are substantially resolved under Alternative B.

Finally, Alternative B will further the purposes of the Wild and Scenic Rivers Act by recommending designation of approximately 61.5 miles as part of the nation-wide river system. The Kern is within easy reach of a large urban population base and it would be the only component of the Wild and Scenic River System anywhere in Southern California. Since most of the adverse economic, private landownership and other concerns can, at the same time, be avoided, we are recommending Alternative B as the preferred alternative.

Senator BINGAMAN. Thank you very much. We appreciate that testimony.

That will complete the witnesses we have scheduled on the Kern River, and I will dismiss this panel and call up a panel that is to talk about S. 275, about the Merced River.

Ron Stork, Merced Canyon Committee. Laurel Anderson of the El Portal Planning Council. Richard Kunstman, Merced Canyon Committee and Hildegaard Heidt, owner of the Mountain King mine.

## STATEMENT OF RONALD M. STORK, EXECUTIVE DIRECTOR, MERCED CANYON COMMITTEE

Mr. STORK. Thank you, Mr. Chairman. My name is Ronald Stork, I am executive director of the Merced Canyon Committee.

The Merced Canyon Committee is an organization that was formed about 3 or 4 years ago, basically made up of citizens of the Merced River Canyon and local communities that surround that area. We are about 600 members strong. About half of our membership is there.

We formed that committee because we were concerned about the future of the Merced River canyons. The present resource that we have in this very beautiful area is distinctly a national treasure.

In the area of rich human and wild land resources, varied recreational opportunities. In fact on our left here we have a blownup map of the lower Merced River canyon with the list of camp grounds and the sections of the river of particular interest.

The river is hunted, fished. There is hiking, boating, swimming, floating, just plain nature observation. It's a wonderful place.

The river canyon is also adjacent to Yosemite National Park. Particularly important there is a wintering wildlife area for the high elevation sections of the park. The lower river canyon here is low elevation and, therefore, snow free in the winter.

Probably at least in my own view the best thing about the Merced River canyon, particularly the section that is managed by the Bureau of Land Management and U.S. Forest Service, is that it is indeed the gateway to Yosemite National Park.

Riding the highway down into the Merced River canyon on your way to Yosemite National Park is an experience shared by millions of people over the years, their first view of Yosemite is that wonderful, spectacular highway drive into that canyon.

In fact, indeed, I wish you could be there today, because the canyon is just covered with poppies and golden green.

Senator BINGAMAN. I wish I could, too. I remember being in Yosemite park many times. It is beautiful.

Mr. STORK. Unfortunately, there are others who hold a different view for the future of Merced River canyon. The reason here is a number of hydroelectric proposals have been proposed on the Merced River canyon and that is indeed why we are here today.

In the view of the committee these proposals which would alternately inundate large sections of the river canyon or remove a substantial portion of the river water by simply diverting the river into tunnels, bypassing the river, would forever alter the existing character of this wonderful resource. That is why we are here.

Fortunately, a number of other people have different views than the hydroelectric developers here. And that is a view that is just as you have just heard, has been shared by both the California Senators, the managing agencies who manage the public lands, the National Park Service, Bureau of Land Management and U.S. Forest Service. They are enclosing in their draft plan documents at this time of the river being recommended for wild and scenic. Of course, we support that recommendation.

I should also point out that the Merced River is an area that has a lot of people who live on it. There are communities who are here and we will hear more about that. This has been a community effort.

The community in the canyon is asking that this river be protected. The people in the community understand the nuances of the Wild and Scenic Rivers Act and basically are saying to you please help us protect our river canyon.

I would so urge you. Thank you.

[The prepared statement of Mr. Stork follows:]

TESTIMONY OF RONALD M. STORK

EXECUTIVE DIRECTOR

MERCED CANYON COMMITTEE

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

APRIL 23, 1987

HEARINGS ON S. 275

TO DESIGNATE THE MERCED RIVER AS A COMPONENT

OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

Statement of Ronald M. Stork
Executive Director, Merced Canyon Committee
Before the Subcommittee on Public Lands, National Parks and Forests;
Senate Energy and Natural Resources Committee.
April 23, 1987

Mr. Chairman and Members of the Committee,

My name is Ronald Stork, Executive Director of the Merced Canyon Committee. Our organization was formed to defend the natural and public resources of the Merced River Canyons. Our membership strength rests within the local communities of the Merced River and the surrounding local areas, but concern and support for our efforts has been generated throughout the country.

We enthusiastically support S.275. This bill protects the entire Merced River above Lake McClure Reservoir - one of this country's best known and beloved rivers. It also includes the Merced's South Fork a precious wildland resource - outside of Yosemite National Park as well as within.

The Merced River system is a national - indeed international - resource. Its preservation outside of Yosemite National Park is of real concern to many Americans, as well as to the residents and businesses who dot its shorelines. The prospect of additional dams and diversions on the river threatens to forever alter these very special areas next to Yosemite. Inclusion of the Merced River and its South Fork into the National Wild and Scenic Rivers System offers a real opportunity to preserve and protect the special values of these rivers.

Considerable consensus has been achieved on the need to protect the Merced. The National Park Service, the U.S. Forest Service, and the Bureau of Land Management, - agencies who manage over 90% of the river corridor - have all proposed that the river system be added to the Wild and Scenic River System. This joint proposal was made in the Sierra National Forest's draft Land Management Plan (LMP). The Bureau of Land Management has reaffirmed that position in its recently released Sierra Management Framework Plan. Public and editorial comments for this proposal have been overwhelmingly favorable.

[In response to the Forest Service LMP, the Merced Canyon Committee prepared a detailed and comprehensive 160 page analysis of the impacts of the agency proposal. This document has been made available to Committee staff. Additional copies are available on request.]

Opposition to the El Portal Project, a hydroelectric diversion proposal just below the main entrance to Yosemite National Park, has been nearly unanimous. Local citizens, local business concerns, all of the area's elected officials, state and federal agencies, and environmental groups have opposed the proposal - now pending before the Federal Energy Regulatory Commission. We believe that the decision to preserve or dam the Merced River should rest with Congress and not the Commission. Only Congress can definitively preserve a free-flowing river. We believe that Congress is ready to take that step. We

urge quick action here, for Congress must act before any approval action by the Commission in order to decisively protect this reach of river.

A bill (H.R. 317) to protect portions of the Merced River and its South Fork has already been passed by the House of Representatives. Again, we urge that this body also take quick action on S. 275, the bill before this subcommittee today.

While the Merced Canyon Committee supports both the H.R. 317 and S. 275, we prefer S. 275. S. 275 protects the entire Merced River above Lake McClure Reservoir as recommended by the managing federal agencies. H.R. 317 would place the lower eight miles of the Merced River in a five year temporary water development moratorium; a moratorium that fails to provide the protection for the public river corridor lands given to rivers undergoing congressional wild and scenic river studies. The absence of this protection could clearly jeopardize the quality and availability of important public recreation and wildlife resources within the lower river canyon.

But there should be no reason for Congress to have to fashion the details of a water development moratorium. These eight miles are clearly eligible for wild and scenic river status. There are no legitimate resource conflicts that should be used to exclude this portion of the river from designation in the national system at this time along with the rest of the Merced River. S. 275 recognizes that fact and we applaud the vision of the Senators Wilson and Cranston of California for sponsoring this bill.

5/21/87

Proposed Wild and Scenic River Classification: Merced River (Merced Canyon Committee 9/80)

Senator BINGAMAN. Thank you very much.
Laurel Anderson.

## STATEMENT OF LAUREL ANDERSON

Ms. ANDERSON. Mr. Chairman, my name is Laurel Anderson, I am a homeowner and resident in El Portal, California, a small community of 500 people located on the Merced River just outside Yosemite National Park.

I am a member of the advisory committee and active in other local community activities. Today I am here to speak for my town and the people of Mariposa County who aren't otherwise represented, and I thank you for that opportunity.

As a native Californian I have had the opportunity to have camped, fished and hiked around the state's lakes and rivers as long as I can remember.

Since moving to the Yosemite area 17 years ago I have seen a tremendous growth in outdoor activities both within Yosemite National Park and along the Merced River canyons as well.

Senator BINGAMAN. Don't let those buzzers bother you. They just do that to keep people awake.

Ms. ANDERSON. The economy of the county is dependent on the use of its public lands and rivers.

For many of us who live in the county the beauty and solitude we find there is our reason for being there, and it attracts people from near and far to our area. Three million people visit Yosemite National Park every year, many travel along the Merced River to get there.

In keeping with the recommendations of the U.S. Forest Service, the National Park Service and BLM we strongly support Senator Wilson and Senator Cranston's bill for inclusion of the entire Merced River.

We are thankful to our Congressman, Tony Cuelo, for recognizing the need for permanent protection of the Main Stem of the South Forks. However his bill, H.R. 317, which has passed the House does not include protection for 8 miles commonly referred to as the lower river. We feel the section below Briceburg is as worthy, if not more so, for protection as any other part of the river.

An old railroad grade provides access all year long to people of all ages for a variety of activities, hiking, camping, backpacking, wild flower and bird study, fishing, swimming and white water rafting.

So why are we meeting county opposition to protect the lower part of the Merced River? We can't seem to get an answer from the 4 supervisors opposed. The fifth, Art Bagget, represents my district and supports S. 275. He was overwhelmingly elected last year and in a 4-way race based on this platform.

Many people throughout the county want to see the river protected and we wish the other 4 supervisors shared our views on this issue.

Congressman Coelo's work with the County Board of Supervisors for many years to encourage them to develop a future water plan for the county, yet there is no plan. Water for future needs is avail-

able, wild and scenic protection will not interfere with that availability.

As long as the river remains unprotected there may be others who wish to explore development as well and without benefit to Mariposa County. The time to protect the Merced River is clearly now.

We would like to see the passage of S. 275. To protect only a part of the river would be like an immune system that protects only a part of the body. This nation has lost too many rivers to unnecessary hydrowater projects already. The river deserves protection.

What it offers is becoming increasingly rare. A free flowing river can be lost only once. For the millions who want it as well as the local residents I urge the committee to do the right thing and save the Merced River.

[The prepared statement of Ms. Anderson follows:]

TESTIMONY OF LAUREL L. ANDERSON

Before the

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

April 23, 1987

Testimony of Laurel L. Anderson
Before the
Subcommittee on Public Lands, National Parks and Forests
April 23, 1987

Mr. Chairman and Committee Members:

My name is Laurel Anderson. I am a resident of El Portal, a small community of 500 people which is located on the Merced River just outside Yosemite National Park. I am a member of the El Portal Town Planning Advisory Committee and I'm active in local community and school activities. Today, I am here to speak for my town, District 1 and the people of Mariposa County who are not otherwise represented.

As a native Californian, I have had the opportunity to have camped, fished and hiked around the State's lakes and rivers for as long as I can remember. Since moving to the Yosemite area 17 years ago, I have seen a tremendous growth in outdoor activities, both within the National Park and along the Merced's Main and South Forks as well. Mariposa County's economy is dependent on the significant and expanding recreational use of its public lands and rivers. The natural scenery and wilderness-oriented recreational opportunities in the area are county treasures as well as national ones. For many who live in the county the beauty and solitude we find is our reason for being there and attracts people from near and far to our area. Three million people visit Yosemite National Park every year, many of them traveling along the Merced River to get there.

When Joe Keating came down from Placerville with his proposal for a hydro-project at Yosemite's doorway, our little community became enraged. His and other hydro-proposals let us know that our river was "up for grabs". We had taken it for granted long enough! After educating ourselves about California's lack of need for more hydro-power, the PURPA incentives, and the protection available for "worthy" streams like Yosemite's River, we began organizing to seek Wild and Scenic protection for the Merced.

In keeping with the recommendations of the U.S. Forest Service, The National Park Service, and the Bureau of Land Management, we strongly support Senators Wilson and Cranston's bill for inclusion of the entire Merced River.

Our Congressman, Tony Coelho, recognized the need for permanent and immediate protection for the Main Stem and South Fork of the Merced. His bill, H.R. 317, which has passed the House, includes only a 5 year moratorium on the lower section of the Main Fork, but it has paved the way for S. 275 which would designate the whole river. The section below Briceburg, or the 8 miles commonly referred to as the lower river, is as worthy of protection if not more so that any other part of the river. An old railroad grade provides access all year long to people of all ages for a variety of recreational activities: hiking, camping, backpacking, wildflower and bird study, fishing swimming, and whitewater rafting. Without this precious part of the river, many outfitters

would not be able to offer trips on the Merced. There would simply not be enough runnable miles for a commercial trip.

So why are we meeting County opposition to protection for the lower portion of the Merced? We can't seem to get a provable answer from the 4 supervisors who are opposed. The 5th supervisor, Art Baggett, represents my district, and supports S. 275 for Wild and Scenic designation for the entire river. He was overwhelming elected last June in a 4-way race based on this platform. Many people throughout the County want to see the river protected and feel that the other 4 supervisors do not represent their views on this issue.

Congressman Coelho has worked with the county Board of Supervisors for years to encourage them to develop a future water plan for the County. Yet, there is now no plan. Water for future needs is available at the existing McClure Reservoir and Wild and Scenic Protection will not interfere with its availability. As long as the river remains unprotected there may be others who wish to explore development as well, and without benefit to Mariposa County. The time to protect the Merced River is clearly NOW!

We would like to see the passage of S. 275. To protect only a part of the river would be like an immune system that protects only a part of the body. It all works together or it doesn't work at all.

This Nation has lost too many rivers to unnecessary hydro and water projects already. The Merced deserves protection because what it offers us, our children and all life that depends on it is becoming increasingly rare. A free-flowing river can be lost only once; it can never be remade or replaced. For the millions who want it, as well as the local residents, let's do the right thing and SAVE THE MERCED!

Senator BINGAMAN. Thank you very much for your testimony.
Mr. Kuntsman, glad to have you here.
Mr. KUNSTMAN. Thank you.
Senator BINGAMAN. If you and Ms. Heidt could both summarize your statements that would be helpful.

## STATEMENT OF RICHARD W. KUNTSMAN

Mr. KUNSTMAN. I am Dr. Richard Kunstman, chemical engineer retired after 29 years in research for Shell Oil Company.

I have done most of the technical analysis of domestic water options for the Merced Canyon Committee and I am grateful for the opportunity to present the information I have developed.

In 1978 the county commissioned a study of domestic water development options which showed the South Fork of the Merced River to be excessively costly and Briceburg and Lake McClure to be financially equivalent sources. Our studies confirmed exorbitance of the South Fork source and equivalence of the Briceburg and Lake McClure options. Other sources such as Columbia Bar Creek and the Stockton Creek involve even lower costs.

These comparisons appear in attachments 1 and 2 of the committed material.

As you can see from the map, Lake McClure is outside the proposed wild and scenic corridor. Thus, designation will not impair the feasible water options for Mariposa County.

The estimated maximum population of the county to 53,000 county-wide is expected to continue the present distribution pattern of 85 percent rural and 15 percent urban. The rural residents depend on privately-owned wells and water systems for their domestic needs.

Thus the need for developed community water system will apply to only the 15 percent of that 53,000 population or 8,000 persons.

This corresponds to a total requirement of 16,000 acre feet per year. The county is aggressively pursuing the Stockton Creek development project which will provide a firm yield of 1,200 acre feet per year.

It appears the desire to pursue revenue producing projects underlies the opposition to wild and scenic protection by the County Board of Supervisors.

Supervisor Erickson has been quite forthright in his advocacy of water purveying and an hydroelectric project on the South Fork using the lower section for water storage, presumably for subsequent export sales.

Statements of the above advocacies appear in attachment 3 of the submitted material.

Mariposa County cannot afford to undertake projects of this nature. Meanwhile, without wild and scenic protection the river is vulnerable to this type of development by outside agencies. Such developments would produce no revenue to the county.

It is precisely to prevent this type of vandalism that the majority of county residents have encouraged the canyon committee' efforts to protect the river. This has taken the form of financial contributions and support for fund raising activities. The evidence of this support is presented in attachment 4.

In contrast, the opponents of this legislation have submitted no evidence of community support for their position, no grass roots organization has arisen and there is no indication contributions to that cause of resisting designation.

We respectfully request that you report favorably on this bill.

Thank you.

[The prepared statement of Mr. Kuntsman follows:]

File - MCC-126

16 March 1987

TESTIMONY OF RICHARD W. KUNSTMAN ON SENATE BILL S.275

Before the

PUBLIC LAND, RESERVE WATER AND
RESOURCE CONSERVATION SUBCOMMITTEE

of the

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Mr. Chairman and Committee Members,

In Mariposa, the allegation has been made frequently that wild and scenic designation for the Merced River will obliterate any options the County has for water development projects on the river. Statements of this nature create the impression that people will be denied any opportunity to obtain needed domestic water if the river becomes wild and scenic. In 1978 the County commissioned a study by Moldenhauer/Bennett and Company on the feasibility of water development options. This study examined three possible locations on the river that might be tapped as supply sources. These were: the South Fork, Briceburg, and Lake McClure. The South Fork was quickly rejected as a potential source because of the excessive construction costs. (See Attachment 1.) Briceburg and Lake McClure were approximately equal in cost with Lake Mcclure having about a 1% financial advantage. Recent analyses of costs for various water development options (see Attachment 2) confirm the exorbitance of the South Fork proposal and the cost equivalence of the Briceburg/Lake McClure developments.

Since Lake McClure is outside the proposed Wild and Scenic Corridor, designation will have no practical effect on Mariposa's domestic water development options. Furthermore, alternative sources such as Plumbar Creek and Stockton Creek, are more attractive financially than any of the proposals to tap the proposed wild and scenic portions of the river. (See Attachments 1 and 2.)

At present the population of Mariposa County is 85% rural. These rural residents rely for their water supplies on individually owned wells and private systems. Most new residents come to Mariposa to escape the crowded conditions of urban living. With this motivation it seems unlikely that the ratio of rural to urban population will change very dramatically with the passage of time. The estimated maximum population is 53,000 persons. The water needs of 15% of this number (8,000 persons) can be met with developed water supplies totalling 1,600 acre-feet per year. At this time, the Mariposa County Water Agency is aggressively pursuing the Stockton Creek development option, which will provide an additional firm yield of 1,200 acre-feet per year.

Inclusion of the Merced in the Wild and Scenic Rivers System would indeed preclude such development options as hydroelectric plants and large impoundments for water export sales. It appears that the desire to encourage these types of vandalistic developments on the river underlies the opposition of the Mariposa Board of Supervisors to wild and scenic protection. Supervisor Erickson has been quite forthright in his advocacy of purveying water and a hydroelectric project on the South Fork. (See Attachment 3, pages 1, 2 and 7.) Supervisor Dalton has also advocated revenue producing projects on the lower river. (See Attachment 3, pages 5 and 8.) Supervisor Radanovich has advocated using the river segment from Briceburg to Lake McClure as a water storage reservoir, presumably for subsequent export sales. (See Attachment 3, page 10.)

If the Merced is not added to the National Wild and Scenic River System at this time, it will remain vulnerable to development projects of this type. Mariposa County does not possess the financial resources nor the credit to undertake a project of this magnitude at this time. Development of such a financial potential in the foreseeable future is entirely speculative. Meanwhile the river would be accessible to any outside agency such as the Merced Irrigation District, the Turlock Irrigation District, or even the Metropolitan Water District of Los Angeles. If one of these agencies were to construct a project on the river, Mariposa County would derive no benefit from it. Article 13 of the State Constitution specifically exempts such "Municipal Corporations" from taxation by local governments. It is precisely to protect the river from this sort of vandalism that we request you to include the Merced in the National Wild and Scenic River System.

The majority of Mariposa County residents have demonstrated their support for protection of the river in many ways. (See Attachment 4.) In contrast, those opposed to protection have presented no substantive evidence to indicate support from a significant fraction of the populace. There has been no grassroots organization arise with the purpose of opposing the proposed legislation. There have been no contributions to that cause. Instead, there has been only an obstinate refusal to discuss the merits of the Board of Supervisors position in any kind of public forum where the true attitudes of the population could be expressed. We respectfully request that you report favorably on this bill.

# ATTACHMENT - 1

EXCERPTS FROM THE 1978 MOLDENHAUER/BENNETT

MARIPOSA BASIN WATER SUPPLY FEASIBILITY STUDY

(VIABLE ALTERNATIVES)

EXCERPTS FROM 1978 MOLDENHAUER/BENNETT REPORT

# CHAPTER V VIABLE ALTERNATIVES

## REFINEMENT OF SELECTED ALTERNATIVES

After a review of the alternatives by the LRWSC, four were determined to be viable and worthy of more detailed study:

- New Dam and Reservoir on Stockton Creek
- Dam and Reservoir on Plumbar Creek with Pipeline to Mariposa
- Merced River Pump Station at Briceburg and Pipeline to Mariposa
- Merced River Pump Station at Bagby and Pipeline to Mariposa

The systems are similar in that they are required to have a firm annual yield of 1200 acre-feet. The methods each system employs to achieve this yield varies somewhat due to differences in stream flow and topography. All surface water sources will require similar treatment, potable storage and distribution systems. Comparative estimated costs are shown in Table 4.

Although two similar diversion points along the Merced River are considered, they will be treated as separate alternatives for the purposes of cost comparison. The Bagby - Mt. Bullion - Mariposa project is referred to as Alternative 7-A, and the Briceburg - Summit Inn - Mariposa project is labeled Alternative 7-B.

## DESCRIPTION OF SELECTED ALTERNATIVES

### Alternative 7-A

Two alternatives exist as to the type of diversion. One possibility is to pump directly from Lake McClure. The intakes would be located at an elevation low enough so water could be pumped when the reservoir is at its normal seasonal low. If Lake McClure storage is utilized no additional storage would be necessary. A modified

alternative is to build a diversion structure at Bagby and store water at another location to provide water during the annual dry cycle when Merced River flow is low. A diversion structure could be constructed which would not impair navigation on the reservoir. From the diversion point the water would be pumped through a 15-mile pipeline to the Mariposa Basin for treatment and use. The pump station capable of lifting the water 1400 feet would be located on Lake McClure near Bagby. The pipeline would then follow a route east on State Highway 49 near elevation 2200 feet through Bear Valley and Mt. Bullion. Another lift station may be required to reach storage in the Mariposa Basin. It would be feasible to divert water from the pipeline in the Bear Valley and Mt. Bullion area if treatment is provided in those locations. Access to the pump station and pipeline is available from State Highway 49.

Alternative 7-B

As with Bagby, Briceburg offers two types of diversion. In order to store enough water to provide an adequate supply during the low runoff season a small storage reservoir might be constructed near Briceburg. Alternately, if storage is developed off the main river a small diversion structure along the river could be constructed to provide a pumping pool. The diversion structure could be designed not to obstruct the river channel. From the diversion point, the water would be pumped through an 11-mile pipeline to the Mariposa Basin for treatment and distribution. The pump station could be located along the Merced River near Briceburg and would be required to lift the water approximately 2000 feet. The pipeline would follow State Highway 140 into the Mariposa Basin. Access to the pump site and pipeline is provided by existing roads.

The existing MPUD Stockton Creek reservoir with minor modifications would provide sufficient storage for the low runoff seasons. This reservoir could be utilized by both Alternatives 7-A and 7-B. However additional pumping from the MPUD Reservoir would be required to serve the Mariposa North Area and other possible service areas.

Alternative 8

The site at Plumbar Creek offers flexibility in its development. As proposed, a 115-foot dam would be located at the 2999-foot elevation to form a 3000 acre-foot reservoir. A small saddle dam would be required on the west side of the reservoir. A spillway could be constructed through the saddle along the west side of the reservoir to divert stream flows which exceed the capacity of the outlet works. For the most part access to the dam site is by existing dirt and gravel roads. Approximately 1/2 mile of new road would be needed to extend the existing road to the dam site. The reservoir would inundate 1/2 mile of Carstens Road, making relocation necessary. The area would be fenced to keep livestock out of the reservoir.

From a treatment plant near the dam, water would flow by gravity through a pressure pipeline along State Highway 140 past Summit Inn, to a potable storage tank (elevation 2500 feet) near the junction of State Highway 140 and Old Highway Road. The treatment plant could be located somewhere beyond and below Summit Inn; however, an additional treatment plant would be needed if water is diverted to the Bootjack area.

At the March 16, 1978 LRWSC meeting MBC was instructed to make a cursory investigation of possible water service to the Bootjack area. The population and demand projections appear in Chapter III of this report. Based on these projections, it is estimated that the Plumbar Creek reservoir could supply both the Mariposa Basin and the Bootjack area until 1992. In order to transport water to the Bootjack area, a 5000-foot spur pipeline and pump station would be constructed near Triangle Road. The pump station would provide a lift of approximately 150 feet to a potable storage reservoir. The pipeline would follow Triangle Road to its summit and terminate at a potable storage reservoir sized to meet the Bootjack area demands.

By increasing the height of the main dam and saddle dam the reservoir could be enlarged to a capacity of more than 10,000 acre-feet. To supply additional water to an enlarged reservoir, a diversion structure on Bear Creek near Timber Lodge could be constructed. This diversion system could supply up to 2500 acre-feet annually. A pump station could lift the water approximately 600 feet through a 6800-foot pipeline to Plumbar Creek reservoir for storage. If future demand warrants the development of additional supplies, ultimately Merced River water could be diverted at Briceburg and conveyed to the Bear Creek diversion, thence to Plumbar Creek reservoir for storage. These two phases, Bear Creek diversion and Merced diversion, could supply the ultimate projected needs of the Mariposa and Bootjack Basins.

Alternative 9

From a new 2800 acre-foot reservoir on Stockton Creek the water would be pumped up to a treatment plant on the divide between Mariposa and Stockton Creek. Treatment facilities and potable storage would be located near the 2500-foot elevation on the divide. The total lift from the reservoir to the potable storage is 700 feet. Twelve thousand feet of pipe would be required to convey the water from the reservoir to the potable storage tank. A 2000-foot access road would be needed to provide access to the dam site. Outlet works would be provided through the dam and an uncontrolled spillway would be provided near the right abutment.

The existing MPUD reservoir can provide additional storage which could be utilized to settle suspended sediment from upstream and to supply water during extended dry periods.

Meanings of Abbreviations Used in Text

LRWSC ---------- Long Range Water Study Committee
MBC ---------- Moldenhauer/Bennett Company
MPUD ---------- Mariposa Public Utility District

Alternative IV, South Fork of the Merced River

The County of Mariposa has water rights to 112,000 acre-feet per year of South Fork water. The water quality in the river is very good at the present time; therefore very little treatment would be needed. It should be noted that with increased development and park use, this high quality may be reduced unless suitable treatment and disposal facilities are provided for the Wawona Fish Camp and Park areas. The physical problem tapping this source is one of inaccessability. For the most part, the South Fork flows through a rugged canyon approximately 20 miles from the Mariposa Basin. Due to the long distances, the water must be conveyed, and the ruggedness of the terrain makes the cost of this alternative very high. The preliminary estimates of capital cost for diversion, pumping and conveyance structures was $11,040,000. In addition, the system would have high operating and maintenance costs. Since this same water is available from more accessible locations along the Merced River, this fairly costly alternative was dropped in favor of projects closer to the Mariposa Basin.

# ATTACHMENT - 2

COMPARATIVE COST ESTIMATES

FOR VARIOUS WATER DEVELOPMENT OPTIONS

FOR THE MARIPOSA AND BOOTJACK

TOWN PLANNING AREAS

File - MCC-0145
10 March 1987

## ANALYSES OF COMPARATIVE COSTS OF WATER SUPPLY OPTIONS FOR THE MARIPOSA AND BOOTJACK TPA'S

The following pages contain summaries of estimated costs of various water development options for the Bootjack and Mariposa Town Planning Areas. The estimates are not intended to be realistic. They represent the best case (minimal cost) scenarios. Allowances have not been included for cost overruns caused by unexpected construction problems or inclement weather delays. Furthermore, no charges have been added for engineering and administration, and the contingencies have been assumed to be 10% of the total cost rather than the customary 20%.

Since the criteria used in developing the estimates were identical for all options, the figures provide a basis for comparing the various options with one another. None of the studied models include cost estimates for construction of access roads. In most cases, access is provided by existing roads and highways. However, for Models 1,2 and 3, which tap the South Fork, the costs for new access roads is expected to increase significantly the cost of installing the conveyance system. Realistic cost predictions, for all models, will be considerably larger than these estimates.

The following criteria were applied in developing each estimate:

1 - Community served consists of 2250 subscribers.
2 - Each subscriber represents a water demand of 4.5 equivalent persons. (10,000 equivalent population).
3 - Water demand of 180 gal per person per day (statewide average) implies 2000 acre-ft. per year per community.
4 - Subscribers are located on a linear grid with 50 ft. frontages (minimal distribution system length).
5 - For water obtained from the Merced River, other than from the South Fork, the water must be purchased from MID.

The following models were examined:

1 - Water supply for Bootjack TPA obtained from proposed MID hydroelectric project on the South Fork.
2 - Water supply for Bootjack TPA obtained from South Fork at the 3350 ft. elevation.
3 - Water supply for Bootjack TPA obtained from South Fork at the 2000 ft. elevation.
4 - Water supply for Bootjack TPA obtained from Plumbar Creek Reservoir.
5 - Water supply for Mariposa TPA obtained from Merced River at Bricaburg.
6 - Water supply for Mariposa TPA obtained from Merced River at Lake McClure.
7 - Water supply for Mariposa TPA obtained from New Stockton Creek Reservoir.
8 - Water supply for Bootjack TPA obtained from New Stockton Creek Reservoir.
9 - Water supply for Bootkack TPA obtained from New Stockton Creek spillage during 4-month rainy season and stored in local reservoir at Bootjack.

## DEVELOPMENT MODEL NO. 1

### Capital Costs

| | |
|---|---|
| **Diversion, Conveyance, Storage** | |
| Reservoir Construction (Dam) * | $2,528,000 |
| Delivery Piping (Source to Destination) | $4,190,000 |
| Pumping Stations | $95,000 |
| Contingency | $681,300 |
| DCS Subtotal | $7,494,300 |
| **Local Distribution & Treatment** | |
| Water Treatment Plants | $600,000 |
| Water Mains (Installed) | $1,575,000 |
| Sewer Mains (Installed) | $1,687,500 |
| Sewage Pump Stations | $750,000 |
| Sewage Treatment Plants | $4,000,000 |
| Contingency | $861,200 |
| LDT Subtotal | $9,473,700 |
| TOTAL CAPITAL COSTS | $16,968,000 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,347,300 | $988,900 |
| Pumping Expenses | $133,300 | $133,300 |
| Water Purchases | | |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,580,600 | $1,222,200 |
| Cost per acre-ft. | $790 | $611 |
| Subscriber Annual Cost | $702 | $543 |

* Small reservoir (700 acre-ft.) required to store water during 4 months when South Fork is dry.

DEVELOPMENT MODEL NO. 2

Capital Costs

| | | |
|---|---|---|
| Diversion, Conveyance, Storage | | |
| Reservoir Construction (Dam) * | | $2,528,000 |
| Delivery Piping (Source to Destination) | | $7,083,500 |
| Pumping Stations | | $130,000 |
| Contingency | | $979,200 |
| | DCS Subtotal | $10,770,700 |
| Local Distribution & Treatment | | |
| Water Treatment Plants | | $600,000 |
| Water Mains (Installed) | | $1,575,000 |
| Sewer Mains (Installed) | | $1,687,500 |
| Sewage Pump Stations | | $750,000 |
| Sewage Treatment Plants | | $4,000,000 |
| Contingency | | $861,200 |
| | LDT Subtotal | $9,473,700 |
| TOTAL CAPITAL COSTS | | $20,244,400 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,507,400 | $1,179,800 |
| Pumping Expenses | $208,000 | $208,000 |
| Water Purchases | | |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,915,400 | $1,487,800 |
| Cost per acre-ft. | $958 | $744 |
| Subscriber Annual Cost | $85 | $744 |

* Small reservoir (700 acre-ft.) required to store water during 4 months when South Fork is dry.

DEVELOPMENT MODEL NO. 3

Capital Costs

| | |
|---|---|
| **Diversion, Conveyance, Storage** | |
| Reservoir Construction (Dam) * | $2,528,000 |
| Delivery Piping (Source to Destination) | $5,072,500 |
| Pumping Stations | $360,000 |
| Contingency | $796,000 |
| DCS Subtotal | $8,756,500 |
| **Local Distribution & Treatment** | |
| Water Treatment Plants | $600,000 |
| Water Mains (Installed) | $1,575,000 |
| Sewer Mains (Installed) | $1,687,500 |
| Sewage Pump Stations | $750,000 |
| Sewage Treatment Plants | $4,000,000 |
| Contingency | $861,200 |
| LDT Subtotal | $9,473,700 |
| TOTAL CAPITAL COSTS | $18,230,300 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,447,500 | $1,062,400 |
| Pumping Expenses | $431,300 | $431,300 |
| Water Purchases | | |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,978,800 | $1,593,700 |
| Cost per acre-ft. | $989 | $797 |
| Subscriber Annual Cost | $879 | $708 |

* Small reservoir (700 acre-ft.) required to store water during 4 months when South Fork is dry.

DEVELOPMENT MODEL NO. 4

Capital Costs

| | | |
|---|---|---|
| **Diversion, Conveyance, Storage** | | |
| Reservoir Construction (Dam) | | $2,915,000 |
| Delivery Piping (Source to Destination) | | $3,067,000 |
| Pumping Stations | | |
| Contingency | | $598,200 |
| | DCS Subtotal | $6,580,200 |
| **Local Distribution & Treatment** | | |
| Water Treatment Plants | | $600,000 |
| Water Mains (Installed) | | $1,575,000 |
| Sewer Mains (Installed) | | $1,687,500 |
| Sewage Pump Stations | | $750,000 |
| Sewage Treatment Plants | | $4,000,000 |
| Contingency | | $861,200 |
| | LDT Subtotal | $9,473,700 |
| TOTAL CAPITAL COSTS | | $16,054,500 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,274,700 | $935,600 |
| Pumping Expenses | | |
| Water Purchases | $50,000 | $50,000 |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,424,700 | $1,085,600 |
| Cost per acre-ft. | $712 | $543 |
| Subscriber Annual Cost | $633 | $482 |

DEVELOPMENT MODEL NO. 5

Capital Costs

| | | |
|---|---|---|
| **Diversion, Conveyance, Storage** | | |
| Reservoir Construction (Dam) | | |
| Delivery Piping (Source to Destination) | | $4,132,400 |
| Pumping Stations | | $270,000 |
| Contingency | | $440,200 |
| | DCS Subtotal | $4,842,600 |
| **Local Distribution & Treatment** | | |
| Water Treatment Plants | | $600,000 |
| Water Mains (Installed) | | $1,575,000 |
| Sewer Mains (Installed) | | $1,687,500 |
| Sewage Pump Stations | | $750,000 |
| Sewage Treatment Plants | | $4,000,000 |
| Contingency | | $861,200 |
| | LDI Subtotal | $9,473,700 |
| TOTAL CAPITAL COSTS | | $14,316,400 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,136,700 | $834,300 |
| Pumping Expenses | $420,700 | $420,700 |
| Water Purchases | $50,000 | $50,000 |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,707,400 | $1,405,000 |
| Cost per acre-ft. | $854 | $702 |
| Subscriber Annual Cost | $759 | $624 |

DEVELOPMENT MODEL NO. 6

Capital Costs

| | |
|---|---|
| **Diversion, Conveyance, Storage** | |
| Reservoir Construction (Dam) | |
| Delivery Piping (Source to Destination) | $4,842,400 |
| Pumping Stations | $270,000 |
| Contingency | $511,200 |
| DCS Subtotal | $5,623,600 |
| **Local Distribution & Treatment** | |
| Water Treatment Plants | $600,000 |
| Water Mains (Installed) | $1,575,000 |
| Sewer Mains (Installed) | $1,687,500 |
| Sewage Pump Stations | $750,000 |
| Sewage Treatment Plants | $4,000,000 |
| Contingency | $861,200 |
| LDT Subtotal | $9,473,700 |
| . TOTAL CAPITAL COSTS | $15,097,400 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,198,700 | $879,800 |
| Pumping Expenses | $392,200 | $392,200 |
| Water Purchases | $50,000 | $50,000 |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,740,900 | $1,422,000 |
| Cost per acre-ft. | $870 | $711 |
| Subscriber Annual Cost | $774 | $632 |

DEVELOPMENT MODEL NO. 7

Capital Costs

| | | |
|---|---|---|
| **Diversion, Conveyance, Storage** | | |
| Reservoir Construction (Dam) | | $4,310,000 |
| Delivery Piping (Source to Destination) | | |
| Pumping Stations | | |
| Contingency | | $431,000 |
| | DCS Subtotal | $4,741,000 |
| **Local Distribution & Storage** | | |
| Water Treatment Plants | | $600,000 |
| Water Mains (Installed) | | $1,575,000 |
| Sewer Mains (Installed) | | $1,687,500 |
| Sewage Pump Stations | | $750,000 |
| Sewage Treatment Plants | | $4,000,000 |
| Contingency | | $861,200 |
| | LDT Subtotal | $9,473,700 |
| TOTAL CAPITAL COSTS | | $14,214,700 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,128,600 | $828,400 |
| Pumping Expenses | | |
| Water Purchases | | |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,228,600 | $928,400 |
| Cost per acre-ft. | $614 | $464 |
| Subscriber Annual Cost | $546 | $413 |

DEVELOPMENT MODEL NO. 8

Capital Costs

| | | |
|---|---|---|
| Diversion, Conveyance, Storage | | |
| Reservoir Construction (Dam) | | $1,648,000 |
| Delivery Piping (Source to Destination) | | $45,000 |
| Pumping Stations | | $169,300 |
| Contingency | | |
| | DCS Subtotal | $1,862,300 |
| Local Distribution & Treatment | | |
| Water Treatment Plants | | |
| Water Mains (Installed) | | |
| Sewer Mains (Installed) | | |
| Sewage Pump Stations | | |
| Sewage Treatment Plants | | |
| Contingency | | |
| | LDT Subtotal | $0,000,000 |
| TOTAL CAPITAL COSTS | | $1,862,300 |

| Operating Costs (Annual) | 7.3% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $147,900 | $108,500 |
| Pumping Expenses | $95,100 | $95,100 |
| Water Purchases | | |
| Maintenance & Salaries | | |
| TOTAL ANNUAL COSTS | $243,000 | $203,600 |
| Cost per acre-ft. * | $121 | $102 |
| Subscriber Annual Cost * | $108 | $91 |

* Above costs for Mariposa TPA.

| | | |
|---|---|---|
| Mariposa Cost per acre-ft. | $614 | $464 |
| Mariposa Subscriber Annual Cost | $546 | $413 |

Totals

| | | |
|---|---|---|
| Cost per acre-ft. | $735 | $566 |
| Subscriber Annual Cost | $654 | $504 |

## DEVELOPMENT MODEL NO. 9

### Capital Costs

| | |
|---|---|
| **Diversion, Conveyance, & Storage** | |
| Reservoir Construction (Dam) (Same as ASCR) | $4,310,000 |
| Delivery Piping (Source to Destination) | $1,648,000 |
| Pumping Stations (Twice the hp. for Model 8) | $90,000 |
| Contingency | $604,800 |
| DCS Subtotal | $6,652,800 |
| **Local Distribution & Treatment** | |
| Water Treatment Plants | $600,000 |
| Water Mains (Installed) | $1,575,000 |
| Sewer Mains (Installed) | $1,687,500 |
| Sewage Pump Stations | $750,000 |
| Sewage Treatment Plants | $4,000,000 |
| Contingency | $861,200 |
| LDT Subtotal | $9,473,700 |
| TOTAL CAPITAL COSTS | $16,126,500 |

| Operating Costs (Annual) | 7.5% Loan | 5.0% Loan |
|---|---|---|
| Capital Debt Service | $1,280,400 | $939,800 |
| Pumping Expenses | $164,200 | $164,200 |
| Water Purchases | ---------- | ---------- |
| Maintenance & Salaries | $100,000 | $100,000 |
| TOTAL ANNUAL COSTS | $1,544,600 | $1,204,000 |
| Cost per acre-ft. * | $772 | $602 |
| Subscriber Annual Cost * | $686 | $535 |

# ATTACHMENT - 3

EXCERPTS FROM

TESTIMONY BEFORE HOUSE OVERSIGHT COMMITTEE

AND

BOARD OF SUPERVISORS/WATER AGENCY MEETINGS

WITH COMMENTARY

File - MCC-127

17 April 1987

EXCERPTS FROM TRANSCRIPT OF TESTIMONY BY E.J. ERICKSON

BEFORE CONGRESSIONAL OVERSIGHT COMMITTEE 15 OCT. 1985

E.J.E. - The Mariposa County Board of Supervisors has expressed opposition to Wild and Scenic status of the South Fork of the Merced River below the National Park line. The history of this matter is complex; the issue is simple. We must act in the public's best interest.

COMMENT - Whose interests are served by the BoS position? 85% of the County population resides on "rural" land parcels. "If you reside outside a Utility District boundary, you're on your own for water and water development." - Supervisor L. Radanovich 16 Oct. 85.

E.J.E. - Mariposa County has a resource in the South Fork of the Merced. Limited ground water supplies force constant evaluation of surface water resources. The South Fork may be the last spot in the County where a gravity-flow system could be constructed to distribute domestic water to areas of planned growth within Mariposa County. Officials of the Merced Irrigation District [MID] have told me that it is THEORETICALLY possible to construct a domestic water project, in conjunction with a hydroelectric project, that would involve pumping water only 700 feet to deliver it to a point, above Jerseydale, where a gravity flow system could service virtually all residential growth between the Merced and the Chowchilla Rivers.

COMMENT - There have been no realistic attempts made to evaluate the ground water supplies; either by analysis of historical well production data or by tracer studies. The usual response to any suggestion that such studies would be useful is "There is no way to do it."
When making statements of "theoretically" possible projects the MID officials were endeavouring to enlist the support of the Mariposa BoS for their proposed project on the South Fork. Translation of "theoretical" principles into real applications often turns out to be impractical or exceedingly expensive. In 1978, a contracted study by Moldenhauer/Bennett cursorily rejected the South Fork as a source for a domestic water supply as being excessively costly in comparison to other alternatives. Also, the costs of distributing domestic water to "virtually all residential growth between the Merced and Chowchilla Rivers" are astronomically large. (See above statement by L. Radanovich on 16 Oct. 85.) This rejection of the Moldenhauer/Bennett conclusions indicates a "Kill the messenger" mindset.

E.J.E. - Mariposa County has a vested interest in the South Fork. In 1960 Mariposa County signed a contract wit MID to settle water rights disputes over the enlargement of the Exchequer Dam. In one portion of the contract, MID agreed that Mariposa County could remove as much as 112,000 acre feet per year from the South Fork for BENEFICIAL USE WITHIN OUR COUNTY. This is a resource which Mariposa County must protect.

COMMENT - MID agreed only not to protest an application by Mariposa to develop a water right to this much water from the South Fork after the year 2014. Other agencies or persons are not constrained by the contract from protesting such an application. The contract specifies that such a water right must be developed "pursuant to law". Mariposa County could not possibly utilize 112,000 acre-feet per year "within the County". MID, as well as others, is not constrained by the contract from protesting any application to develop a water right for export sales purposes.

E.J.E. -Southern California is exerting great political pressure to rob Northern California of its rights to derive benefits from water sources originating in Northern Counties. The Mariposa County Water Agency, with the Board of Supervisors as its Board of Directors, is a member of the Mountain County Water Resource Association. We are actively pursuing a California Constitutional Amendment to protect the Counties of Origin and allow them to either use or PURVEY unclaimed water within their jurisdiction. This is a resource Mariposa Cuonty must protect.

COMMENT - "Rob"? Under the present County of Origin laws, the Northern Counties can develop rights to water which can be put to beneficial use within the counties. These rights become senior to those of any out of basin exporter. Use of the word "rob" in this context is indicative of paranoia.

The County of Origin Laws permit the Counties to "recapture" water, for use within the county, not to develop rights to water for "purveyal" purposes. The recapturing counties would then become "out of basin exporters". To believe that the Southern California Counties, with their preponderance of legislative representation, would agree to a Constitutional Amendment which would permit the Northern Counties to hold water hostage for an exorbitant price is indulging in fantasy.

E.J.E. - It is important to note that if the Merced Irrigation District had followed through on their now withdrawn application to build a hydro-electric project on the South Fork, costing within the neighborhood of $100 million, it would have meant $1 million in property tax revenue to Mariposa County. This would increase our tax base by approximately one third (1/3). Property taxes would have been paid by MID because it is outside their jurisdiction. This is a benefit we must consider and weigh against impacts.

COMMENT - The Supervisor is misinformed. Article 13 Sect. 1 of the California Constitution specifically exempts from taxation Municipal Corporations (such as MID) on lands or improvements if the lands or improvements were not taxable at the time of acquisition. The proposed project would have been built on federal land and the improvements would have been made after acquisition. Therefore Mariposa could not assess any ad valorem taxes.

E.J.E. - I do not contend that at this time it is either economic (sic) feasible or environmentally sound to build a water project on the South Fork. At the same time, I emphatically stress that a Wild and Scenic status designation is premature and would devastate Mariposa County's future ability to utilize its resources for the best interest of the public. We must weigh the benefits of all actions and make deliberate decisions based, not on emotion, but what is in the best interest of the public.

COMMENT - Use of the word "devastate" seems hardly consistent with the supervisor's call for a weighing of the benefits based "not on emotion". The Board has persistently refused to discuss the issue in a "deliberate" fashion; where reasonable and practical alternatives could be explored. Mr. Erickson's subsequant statement that "I am adamantly opposed to wild and scenic status for the South Fork" (12 Aug. 1986) belies his interest in deliberate decisions.

The implication of the final sentence in the preceding testimonial paragraph is that the supervisors alone are competent to decide what is in the "best interest of the public". This attitude may indeed be correct; but it arrogantly abrogates the right of the public to make decisions regarding what its best interests are. Such decisions might be erroneous; but the public should have the right to make mistakes so long as it is willing to accept responsibility for those errors.

E.J.E. - In conclusion, Mariposa County opposes Wild and Scenic status of the South Fork below the Yosemite National Park boundary line; we oppose the Keating project in El Portal; we are investigating Recreational Status on the main stream of the Merced from El Portal to Briceburg. Our Board is responding in the manner in which our constituents have directed us; we are acting in what we consider to be the public's best interest.

COMMENT - The allegation that "Mariposa County opposes Wild and Scenic status of the South Fork below the Yosemite National Park boundary line" is not supported by any substantive evidence. Instead, it is based on the mindset of the Board. There is no documentation offered for the statement that "Our Board is responding in the manner in which our constituents have directed us." The evidence is preponderantly in the diametrically opposite direction. Half of the Merced Canyon Committee's 600+ members reside in the County. These members support the Committee's efforts to obtain wild and scenic status for the entire river with their contributions and individual efforts. The community at large has also enthusiastically supported the committee's fundraising activities (1986 budget - $54,000). A statistical analysis of a recent impromptu poll of a random sample (patients at the local dental offices during the latter part of Nov. and through Dec. 1986) demonstrates that (at the 95% confidence level) 80% to 95% of the County population supports the committee efforts. These data are made even more impressive by the fact that those polled contributed an additional $675 to the committee.

EXCERPTS AND COMMENTARY ON MARIPOSA COUNTY
WATER AGENCY MEETING OF 26 NOV. 1985

B.B. - I think what we need to stress in here is that we're going to expect some help from Congressman Coelho in in facilitating that, making that possible, and maint --- retaining or acquiring whichever the --- depending on your interpretation that possibility of removing the water anywhere we choose.

L.R. - Well I think retaining is the word.

B.B. - That we --- I think that it should be stated very strongly to Congressman Coelho that we're going to expect that kind of help from him. He has offered to help us; but I think we're going to expect some real performance on the (unintelligible).

E.E. - (Long rambling dissertation on history and perceptions of water rights negotiation). The imposition of wild and scenic designation would almost obliterate our ability to utilize --- well it would obliterate our ability to utilize impounded water on the South Fork. You have to balance that with the values, quote unquote, of a scenic designation.

COMMENT - Notice here the emphasis on impounded water in contrast with water for domestic supply. Impoundment is needed for hydro power generation or export sales not for domestic consumption.

B.B. - Well I just don't think we can reiterate strongly enough, and I know people are, the nature of people being what it is they're going to have a tendency to forget item 1 and pick out other issues; but in fact the only way we could ever get any water out of the South Fork is to propose a project after the year two thousand and whatever ---

L.R. - Fourteen.

B.B. - Fourteen, and the only way we could ever exercise that is to propose a project, number 1, number 2, get approval for that project and number 3 build it and actually do it and the possibilities of that are so remote as to be totally negligible.

E.E. - No. I disagree with that.

E.D. - I think the project is in order.

B.B. - I think you'll have to agree with the first three premises that number 1 we'd have to propose it, number 2 we'd have to get permission and number 3 we'd have to build it. Those three are, are ---

E.E. - Someone would have to.

B.B. - That's right. In order for us to exercise what little bit of water there might be there and I am very cognizant of meeting the needs of this county and --- but I feel that it's taken care of in --- that we can take care of those needs in a far more beneficial and cost effective way by retaining the right to remove the water at the place of our choice not at a place that's designated by MID, but at the place that Mariposa County chooses to take it and that's what this proposal does.

E.E. - No. This promo, proposal is to instigating or to start something in that regard, but this ---

B.B. - It proposes it. It proposes, the proposal proposes --- if you, that word sounds better that that's the thing we can go for. You have to deal with reality and you have to deal with probability and they very often are the same thing and we have to --- you may want certain things but you have to face the reality of whether or not those things are attainable and sometimes you have to spend a --- devote your energies to get what's possible and not keep insisting on, on the dream but to deal with life in a pragmatic way. You can't deal with life like it ought to be; you have to deal with it like it is.

E.D. - Well I, I --- like it is is that Congressman Coelho took a position on the South Fork without once counseling with the administration of this county government, without once looking into the needs of Mariposa County. Those things were done and that's the realities of life. Now we're trying to find a way to salvage from all of this.

B.B. - That's right.

E.D. - And I disagree with you when you say little bits of water here and there. I think there's a substantial amount of future uh, uh revenue in what we ---

B.B. - I wasn't speaking about revenue. I was speaking about water.

E.D. - Well you, you have to relate water to energy to revenue. That's, that's basically how it's gonna go down if you want to talk about realities, and I'm not gonna give up any bit of this to clean up Mr. Coelho's act at all.

COMMENT - This illustrates the true concern of the majority of the Board of Supervisors. How to preserve their options to use the river to generate revenue. The "bellyaching" about the county's loss of domestic water supply options under wild and scenic designation for the river is nothing more than a smokescreen for the true motivation. Revenue, revenue, revenue!!!

B.B. - The amount you're speaking about being able to --- that is left unallocated on the South Fork is not a large amount. Its excess flow is not --- after --- what's the footage Leroy?

L.R. - About 900,000 --- 980,000 acre-feet.

COMMENT - The average flow of the South Fork is about 200,000 acre-feet.

L.R. - The problem is that the water rights board that would hear any application does not recognize our rights to water from MID. They would consider it as a new application and basically their position is, at this present time, there is no unappropriated water in the Merced River, as they feel there is no unappropriated water anywhere in the San Joaquin or Sacramento Basin.

E.D. - No. I disagree with them and I think we can make a case.

L.R. - Well that's something that we may have to choose to do in, in, at a future point; there's no question about that.

SELECTED QUOTES FROM WATER AGENCY MEETING
OF 12 AUGUST 1986 ------- WITH COMMENTARY

L.R. - Would you repeat that please? [COMMENT - Dalton's motion]
E.D. - It's very simple. A statement to Mr. Coelho and to the Board of Supervisors that this Agency recommends that no federal law be created to prohibit development on Mercéd River below the Briceburg, below Briceburg.

COMMENT - Rambling discussion about 5 or 25 year moratorium.

E.D. - Yeah well, but Leroy's was talking about the South Fork. I'm not talking about the South Fork. I'm only talking about the main stem below Briceburg; aaand he suggests a five year moratorium and I would say that we should not do that.
B.B. - I'll second that.

E.E. - ----------; but I am adamantly opposed to wild and scenic designation on the South Fork, and for a number of reasons. I've said this several times that there is a value to that 120,000 (sic) acre-foot reservation, however tenuous that reservation may be, there is a value there, that I would feel (I feel very strongly) I would be remiss if I just said that I support the wild and scenic legislation and obliterate the ability of Mariposa County to ever utilize that value, whether it be in the form of a domestic water project, whether it be in the form of a hydroelectric project, whether it be in the form of both, or whether it be in the form of a demonstrated water right that has a dollar value that Mariposa County is able to sell, lease or whatever to somebody else.

COMMENT - 1. Not pertinent - motion did not address the South Fork.
2. Mariposa/MID contract is not a "reservation" or a "water right". Only the SWRCB can grant a water right and has stated, in a letter to the County Counsel, that "without a project, a right cannot be reserved against a future indefinite need".
3. Water Rights developed pursuant to the MID/Mariposa Contract cannot be used (or sold) outside the County.

G.T. - When Mr. Coelho was here we had a long discussion and -uuh- he said "he would help Mariposa County with their water situation; and -uuh- then because he was committed to declare that wild and scenic". But he promised to help us.
G.T. - I have not seen anything that was ----
G.T. - positive come out of this; and until he has some solution to our water problem, I will oppose it, EVERYTHING.

COMMENT - The Supervisors have never provided to Congressman Coelho any definition of Mariposa's water problems or any practical suggestion on how he could help. Wild, Scenic and Recreational status protects Mariposa's rivers from developments incompatible with its tourist based economy.

L.R. - All those in favor, signify by saying aye.
E.D. - Aye.
B.B. - Aye.
L.R. - Opposed?
E.E. - I abstain.

COMMENT - The above motion and discussions relate to Water agency Resolution No. 86-9. A member of the audience (Mr. Harry Wood) then asked for clarification of the intent of the motion.

H.W. - Yes, it's, I guess it's too late now; but if I understand Mr. Dalton's proposal correctly, he would have you tell Coelho that you want to leave the section of the river below Briceburg unprotected. Now, if that is a correct understanding ---
G.D. - No, that's not correct. I don't want him to introduce any legislation period.
H.W. - Well, no federal legislation period would leave that section of the river unprotected.

COMMENT - Board insists on "Undesignated" not "Unprotected".

H.W. - Well alright, undesignated, meaning that anyone for example who wanted to establish some kind of a project, water project or a hydroelectric project, could apply to do it, could apply for permission to do so.
E.D. - You bet.
L.R. - That's right.
E.D. - That's done on purpose.

E.D. - I'll look at a project and evaluate it for what it is.

H.W. -------- if you, in effect, say to Coelho "We want that section of the river to be undesignated" you are automatically saying that it is to be left open to any project developer who has an idea about what he wants to do on that section of the river. And my question is is that a desireable thing for the Board to say to Coelho?
E.D. - I think that it is.
L.R. - Absolutely.
H.W. - In other words you want the, you want that section of the river to be susceptible to private developers? For hydroelectric
---

E.D. - I want that section of the river to be open to the people of Mariposa County to make some kind of decision about what's in their future. And if somebody else comes to this County with a project that fits into the way things work in Mariposa County, and it's to the benefit of the people of Mariposa County; I want the opportunity to be able to say "YES" and if I don't like it, I want the opportunity to say "NO". And that's in the process of evaluation. If this County wants to sponsor a project; I want this County to be able to do it, or this Water Agency or anything that would benefit the County of Mariposa. You bet. That's what I want.
COMMENT - Mr. Dalton fails to comprehend that only the the Federal Energy Regulatory Commission and the Water Board have the authority to grant or deny a License. The Supervisors cannot authorize or prohibit the development of any project.

B.B. - lemme, lemme change my motion a little bit; and my motion was that uuh- would say that the Water Agency supports wild and scenic, recreational status under the Wild and Scenic Rivers Act for the main body of the Merced River from the Parkline to Briceburg. It won't refer to his legislation. It will simply say that we support recreational status under the Wild and Scenic Rivers Act. Is that amendment ---?

COMMENT - Seconded by Erickson. Brief Discussion on classifications proposals for river segments within Yosemite National Park.

L.R. - Okay. Is there any other, any discussion on that motion? All those in favor signify by saying Aye.
E.D. - Aye.
L.R. - Opposed? SILENCE So ordered. Now we want to address ------

COMMENT - The above motion and discussions relate to Water Agency Resolution No. 86-10.

E.D. - The South Fork.
E.E. - I move that we oppose the inclusion of that portion of the river in the Wild and Scenic Rivers Act.
E.D. - I second it.

COMMENT - Very brief discussion.

L.R. - All those in favor signify by saying Aye.
E.D. - Aye.
E.E. - Aye.
L.R. - Opposed.
B.B. - No.

COMMENT - The above motion and discussion relate to Water Agency Resolution No. 86-11. One of the audience (Ralph Mendershausen) then requested that public hearings be held on these matters.

L.R. - In answer to that I'd suspect since this basically is an action that is taken in advisory to the, to the congressman and since it's not an act that we're voting on uuh- that uuh- the Water Agency acts too in the public interest as they perceive it uuh- and you are absolutely right there is no public hearing. However I think that that needs to be conducted at some other level than the, than the Water Agency. Perhaps by the Board of Supervisors or perhaps by the congressman himself.

L.R. - I want to pass the gavel to the vice-chairman of the Water Agency for the purposes of making a motion. Uuh- I am very concerned about the South Fork of the Merced River and the ability for it to be developed by people, individual speculators who have no interest in Mariposa County's future. And for that purpose I am going to move that we advise Congressman Coelho that we suggest that an unspecified period of time, like the moratorium for FERC licensing be the alternative of this Water Agency on the South Fork of the Merced River. I would prefer something that was at least 25 years long. He has indicated to us that that may not be possible.

I don't see how it could be possible to put a moratorium on one section of the river and not put it on another. But uuh-- until such time as Mariposa County's interests are clearly defined in terms of water development I think that we need on one hand to protect the South Fork, I'm in full agreement with that, on the other hand I think we need to protect Mariposa County by not terminating, not terminating our ability to have some beneficial use of those resources. Uuh- and I could propose a five year moratorium in my, in my motion in order to accomplish that on the South Fork.

COMMENT - Seconded by Dalton. Prolonged discussion.

E.D. - We don't want anybody to fool around with that canyon until we -------

COMMENT - Mariposa's potential water development needs are well defined. The most likely diversion site is at Bagby (five miles below the Lake McClure high water mark).

L.R. - ---- (Long introduction) ------ One of the key issues as far as, in terms of the people that, that I represent for the Mountain Counties Water, is going to have to do with where surplus water might be storaged, stored in the future. ------ Year 2000 is only 14 years away and one of the, one of the issues that's going to be raised and is being raised, and very well may have an effect on the future of Mariposa County, is it's ability to somehow have some beneficial use of the water in the Merced River. In my estimation the area that that's probably going to occur for us is going to be that section below Briceburg. And just how that is going to occur, I don't know; but I just don't like the terminal part of this thing. The South Fork of the Merced River that's open to question; we have other issues involved there and that's why I propose at least a moratorium until the State Water Plan is, is, is adopted or we've gone as far with it as we possibly can and we've looked carefully at the future of this county and what that Merc--, what that river represents to us.

COMMENT - Supervisor Radanovich is suggesting that the State Water Project may want to build large reservoirs in the Merced River Canyons (at Bagby) to supply water to large urban users in Southern California. Prolonged, irrelevant discussion on pollution.

E.E. - ---------- . There being no further discussion on the question, those in favor please signify so by saying "Aye".
E.D. - Aye.
L.R. - Aye.
G.T. - Aye.
E.E. - Those opposed?
B.B. - No.
E.E. - Motion carries. (GAVEL)

COMMENT - The above motion and discussions relate to Water Agency Resolution No. 86-12.

SELECTED QUOTES FROM SUPERVISORS MEETING
OF 16 SEPTEMBER 1986 -------- WITH COMMENTARY

B.B. - A letter from the Merced Canyon Committee requesting a public hearing. Can we hold that over till next time?
L.R. - No. ---- Madam Chairman. As long as the press is here. Because more misinformation gets out in the press about our Mariposa County Board of Supervisors/Water Agency position, on the Merced River, than you can imagine. ---------- No mention was made of water storage projects or hydroelectric development on any part of the river as part of any of the decision making process that went on by the Water Agency.

COMMENT - See page 1 ---- statement by Erickson preceding vote on Resolution No. 86-9. See also page 4 ---- statement by Radanovich preceding vote on Resolution No. 86-12

G.T. - I don't believe in a public hearing; because we've gone through this. They've been here.

COMMENT - MCC requested to be on the agenda of the 16 June 1985 meeting of the Board of Supervisors. This does not satisfy the requirements to hold public hearings prior to adoption of a policy.

L.R. - This is a Water Agency issue. It's not a Board of Supervisors issue. The Water Agency is charged with the responsibility of protecting Mariposa's water resources; and the Water Agency is doing that, has been directed to do that, and will do it.

COMMENT - see page 9 ---- response by Radanovich to request for public hearings by Ralph Mendershausen.

C.S. - You were speaking of a public hearing. Is there any date set for that?
L.R. - No, no.
B.B. - We're not speaking of a public hearing.

COMMENT - But no action was taken to accede or deny the request. Effectively the request was ignored.

L.R. - No, what I said, what I said was that the ad hoc committee that will assist the Advisory Committee, in other words we're going to bring people in from all over the county, to participate in the development of this policy.
C.S. - Has this ad hoc committee been formed?
L.R. - Well, that's the point. That at the, there will be a Water Agency meeting next week on the, working on the 23rd ---- for purposes of appointing people who are being contacted now.
C.S. - I see. Okay. So that, so then when the ad hoc committee is appointed they will then ---
L.R. - They'll begin the process of developing the public policy.
C.S. - And that policy will then be brought to public review ---
L.R. - Yes --- by the advis, by the advisory committee initially. Eventually to the Water Agency.

COMMENT - Commentary by Erickson and Barrick. Not responsive to question.

L.R. - But eventually, these policies require public review and should have public review.
C.S. - And how would that take place?
L.R. - The Water Agency would probably conduct that.

COMMENT - Now it has become the responsibility of the Water Agency where five weeks earlier it was the responsibility of the Board of Supervisors or the Congressman himself. Whose will it be next?

L.R. - ---------- At this point we want a Water Policy that says, you know, something that, that, all every county now has adopted a Water Policy ---- this county has not.

COMMENT - According to the Water Agency Advisory Committee Chairman, none of these alleged policies of other counties are available for reference in the Committee files. Mariposa is not the only county that has not developed a water policy.

C.S. - I would like to mention that I don't know, when you said that inaccuracies that are being published about the water, what you've got in mind. ---- Is my reporting ----?
B.B. - No. No. We're talking about misinformation put out by the Merced Canyon Committee.
L.R. - But, but there is one, there's one point that I'd like to really clear up and that is that this Board nor the Water Board in Mariposa County is thinking about cash register things. If one would only consider the fact that our opposition to the hydro-electric projects on the Merced River will cost Mariposa County tax dollars; you see we are, we are making decisions based on what we think is the best ???, what is best for Mariposa County; and so we're not concerned about cash register things. There's another point too and that is selling water to Los Angeles. The facts are the State of California, if anybody, will sell water to Los Angeles, not Mariposa County.

COMMENT - See page 1 where Erickson talks about "hydroelectric project" and a "demonstrated water right that has a dollar value that Mariposa County is able to sell, lease or whatever to somebody else." See also page 4 where Radanovich discusses storage of surplus water in the river section below Briceburg. Similar discussions for storage and sale of water can be found in the minutes of the meetings between Mariposa and MID board members.

B.B. - I have never heard anybody on the Water Agency or the Board suggest selling water to Los Angeles.
L.R. - Well, let me tell you where that came from. When the Kelley Bill first was proposed, one or two years ago, it had some provisions and some amendments that would have allowed the State of California to build reservoirs for storage of surplus water in the state. The Mountain Counties would like to see those reservoirs built in the mountains; because what it does, it keeps the water in the mountains where it's available to the Mountain Counties if they need a small amount.

The Kelley Bill offered the opportunity, of after the projects were paid for by the state, of them being turned over to the county as a way of, of funding eventual water development; but you're looking at 25 to 50 years down the road. The problem that your running into is that probably by the year 2000 there'll be no surplus water in the State of California. And so the only real storage reservoirs for whatever surplus water exists will probably occur in the San Joaquin Valley in places like Los Banos Grandee; simply because they don't have environmental problems.

COMMENT - The Kelley Bill, as passed, does not contain these funding provisions. Furthermore there is not enough surplus water in the Merced River to warrant the expense of a new dam and reservoir to store water for consumptive use. If such consumptive uses develop; the Lake McClure Reservoir has sufficient spare capacity to provide the desired storage.

C.S. - We req, aah we requested, I personally requested Elmer (WAAC Chairman) if anything ----
L.R. - Elmer's not prepared and it's simply because it is now, because the Board has already given him the assignment of getting those water policies together. He's not drafting the water policy, I'm not drafting the water policy, the people of this county will draft the water policy.

COMMENT - This statement and the previous replies to Cheri Seymour's questions, about formation and duties of the committee, [L.R. - "They'll begin the process of developing the public policy" imply a participatory role for the ad hoc committee. Subsequent comments by Supervisor Barrick (about people's willingness to put in all those hours and to drive all those trips) reinforces this inference of the Boards intent.
At the Water Agency meeting on 21 October 1986 Elmer Stroming (Chairman of the WAAC) presented a proposal for a policy development procedure which involved the WAAC accepting public testimony prior to drafting the water policy. In setting a date for this meeting to accept testimony, the board gave tacit approval to this procedure. This reduces the public involvement to a testimonial rather than a participatory role.

L.R. - Well I, you know, I, I remember also when -uuh- the water committee that Janis served on with Harry Stewart and Judge Coakley ---
G.T. - They did a good job.
L.R. - Yes, they did. Uuh ---
B.B. - And now this is your pay for it.

COMMENT - The function of the referenced committee was to provide information which would assist in the preparation of the 1978 Moldenhauer-Bennett report. This report rejected the South Fork of the Merced River as a source of water for Mariposa County after only a cursory examination of the development problems. The preferred alternatives were augmentation of the capture capacity on the Stockton Creek drainage and development of a reservoir on the Plumbar Creek drainage. These are the proposals that the Merced Canyon Committee has been advocating all along.

MEANINGS OF ABBREVIATIONS USED IN BODY OF TEXT

B.B. - Beverly Barrick ---------- Supervisor, District - 1

BLM - Bureau of Land Management ------ U.S. Dept. of Interior

C.S. - Cheri Seymour ---------- Reporter, Mariposa Gazette

E.D. - Eugene Dalton ---------- Supervisor, District - 2

E.E. - Eric Erickson ---------- Supervisor, District - 3

E.S. - Elmer Stroming ---------- Chairman, WAAC

FERC - Federal Energy Regulatory Commission -- Federal Agency

G.T. - Gertrude Taber ---------- Supervisor, District - 5

H.W. - Harry Wood ---------- Citizen, District - 3

J.M. - Janis McRea ---------- Reporter, Merced Sun Star

L.R. - Leroy Radanovich ---------- Supervisor, District - 4

MCC - Merced Canyon Committee

MCWA - Mariposa County Water Agency -- County agency

MID - Merced Irrigation District

MPUD - Mariposa Public Utility District

PURPA- Public Utilities Regulatory Policies Act -- Federal Law

R.M. - Ralph Mendershausen ---------- Board Member, MCC

R.S. - Ronald Stork ---------- Executive Director, MCC

SWRCB- State Water Resources Control Board - California Agency

USFS - United States Forest Service --- U.S. Dept. of Agriculture

WAAC - Water Agency Advisory Committee Mariposa County Water Agency

# ATTACHMENT - 4

WILD AND SCENIC STATUS FOR THE MERCED RIVER

AN EXAMINATION OF COMMUNITY ATTITUDES

File - MCC-085A

25 February 1987

WILD AND SCENIC STATUS FOR THE MERCED RIVER

AN EXAMINATION OF COMMUNITY ATTITUDES

The Merced Canyon Committee was formed early in 1984 for the exclusive purpose of securing wild and scenic protection for the entire Merced River from Lake McClure to El Portal and including the South Fork. The committee has grown to more than 600 members with two paid staff members and an average budget of $3,000 to $4,000 per month. Approximately half of the members reside in Mariposa County and support the committee's goals with their contributions and their individual efforts on the river's behalf.

The major source of financing for the committee efforts is derived from fundraising activities within the County. The County residents have demonstrated their desire for river protection by their whole hearted financial support of these fundraising projects.

Another indication of the community concern favoring river protection is the overwhelming vote of confidence given to the District 1 candidate (Art Baggett) in the 1986 supervisorial election. Campaigning on a platform which advocated wild and scenic protection for the entire river, Mr. Baggett received 65% of the votes cast in the District. In contrast, the incumbent supervisor from District 3 (who opposes protection for most of the River) received only 54% of the votes in his district, when running against a candidate who was the object of a recall effort in 1978.

The efforts of Congressman Coelho to include the Merced River in the National Wid and Scenic River System have been well publicized in Mariposa County; as has the committee's support for these efforts. The 4% increase (from 57% to 61%) in Congressman Coelho's plurality in the 1986 elections is still another indication of the favorable community attitude toward designation for the river. This majority is all the more impressive when contrasted with the county response to the senatorial contest. Here the vote was two to one for the Republican candidate.

The conclusion, that each of the above mentioned community responses indicates support for wild and scenic designation for the river is, of course subjective. Nevertheless, the combination of all these responses adds considerable weight to the conclusion. When these are combined with the more objective data of an impromptu poll (analysis attached), which indicates that at the 95% confidence level, 80% to 96% of the residents favor river protection; a very compelling picture of the majority attitude emerges.

## EVALUATION OF RANDOM SAMPLE RESPONSE

### Background

During the latter part of November and the month of December local dentists, Dr. Timothy Barnes and Dr. Dennis Miller, offered their patients the oppportunity to contribute $5.00 to a fund to assist the efforts of the Merced Canyon Committee to secure wild and scenic status for the entire Merced River System from the headwaters to Lake McClure. Those who chose not to contribute to the fund were given a $5.00 rebate on their charges for dental services. A total of 152 patients were offered this option and 135 (88.8%) chose to contribute to the River Protection Fund. Those who chose not to contribute may not care one way or another or may be opposed to protection of the river. In order to simplify the analysis of these data and to obtain a conservative result, all the non-contributors are assumed to be opposed to wild and scenic designation as a means of protecting the river from hydroelectric or large water storage dam projects.

### Analytical Method

A computer program was written in the BASIC language to simulate the fraction of positive reactions which might be expected in a sample of 100 individuals selected at random from a large population having an assumed fraction of positive respondents. The program has three operating modes. In MODE - 1, the positive respondents are grouped in the forward portion of the population and the negative respondents occupy the latter portion. In MODE - 2, the negative respondents are distributed at even intervals throughout the population. In MODE - 3, the negative respondents are distributed randomly throughout the population. Figure 1 illustrates these three modes with 1s representing positive responses and 0s representing negative responses.

A large number of runs were made in each of the three operating modes to determine whether the response distribution in the population affected the results. These comparison runs used identical fractions of positive respondents and seed values for the random number generating subroutines. No significant differences were found in the results obtained in the three modes. Mode 3 was chosen for the final simulation runs because it provides a response distribution which should more closely resemble conditions found in a real population. Eight replicate runs were made for each population value ranging from 200 to 4800 in increments of 200 and for positive responses of 0.60, 0.75, and 0.90.

Discussion of Results

The averaged outputs, of the eight replicate runs, agreed with the assumed positive responses within two percentage points in all but six of the 75 cases examined. The Sample Deviation "s" ranged from 1.6% to 8.0% with larger values for the 0.60 positive response cases. As the assumed populations increased, the maximum values of the deviations diminished. The values of twice "s" were plotted against the population for the 0.60, 0.75 and 0.90 positive responses. These are shown in Figure - 2. The values of twice "s" was used because this parameter defines the "95% confidence level".

The curves are drawn through the maximum values to define the outer boundaries of the 95% confidence interval. These curves indicate that for a population of 4000 or greater the response measured in a sample of 100 individuals will agree within 9%, 11%, and 12.5% with the expected response of the overall population when the actual population positive responses are 90%, 75%, and 60% respectively. Thus, a measured positive response of 75 percent in a sample of 100 implies a positive response of 64% to 86% in the general population.

For the above example, the 95% confidence interval means that if the sampling operation were repeated 200 times; 190 of the positive response fractions would fall between 64% and 86%. Five would fall below 64% and five would have fractional values above 86%.

The observed sample is 152 rather than the assumed 100 individuals and the number of positive respondents is 135, for a positive response fraction of 88.8%. This is close to the 90% positive response curve where the dispersion, at the 95% confidence level is 9%. However, the width of the confidence interval decreases as the square root of the sample size. Thus for a sample size of 152, the estimated dispersion would be,

$$2s = (100/152)^{0.5} * 9\% = 7.3\%$$

and the estimated positive response PR(4000) within a population of 4000 will be,

$$81.5\% = PR(4000) = 96.1\%$$

Conclusion

The results of this study indicated that between 80% and 95% of the County residents support wild and scenic designation for the Merced River.

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MODE - 1 Discreet

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MODE - 2 Uniform

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MODE - 3 Random

FIGURE - 1 Population Distributions for 75% Positive Response

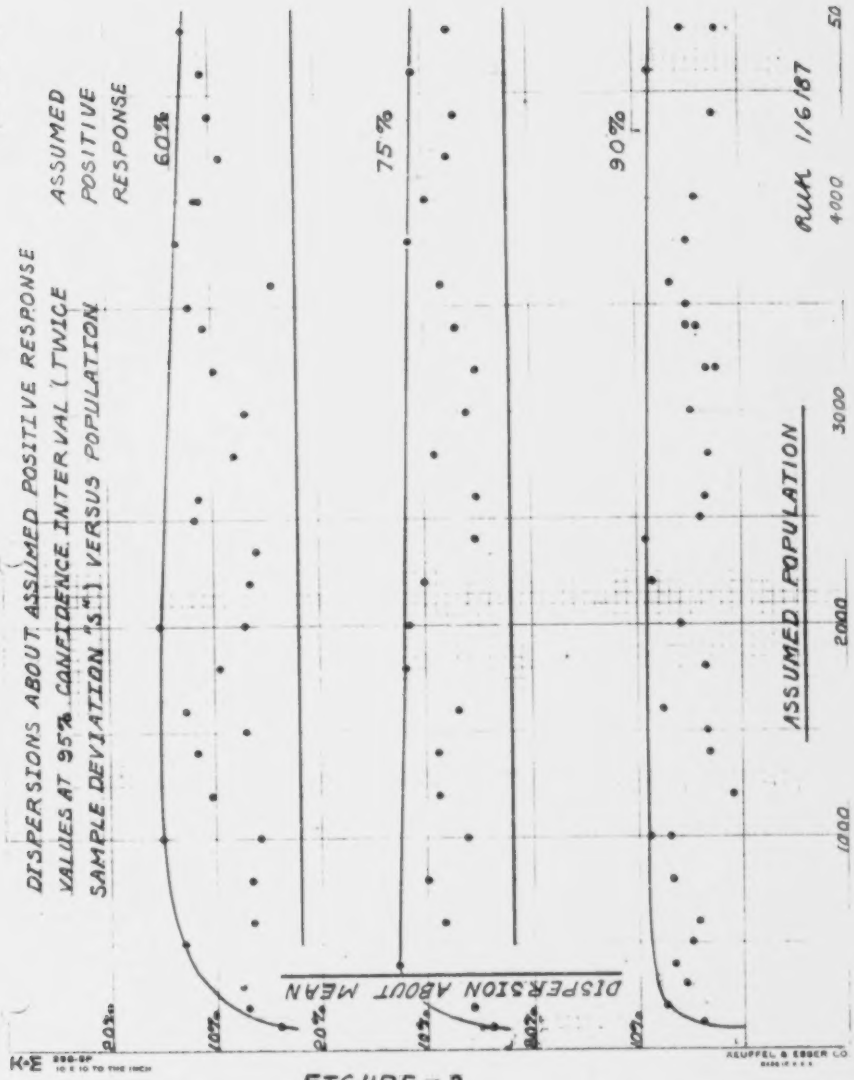
DISPERSIONS ABOUT ASSUMED POSITIVE RESPONSE VALUES AT 95% CONFIDENCE INTERVAL (TWICE SAMPLE DEVIATION "S.") VERSUS POPULATION
ASSUMED POSITIVE RESPONSE
60%
75%
90%
DISPERSION ABOUT MEAN
ASSUMED POPULATION
1000
2000
3000
4000
50
RUN 1/6/67
20%
10%
40%
KE 359-9F
ALUFFEL & ESSER CO.

FIGURE - 2

Senator BINGAMAN. Thank you very much for that statement.
Hildegarde Heidt; is that correct?
Ms. HEIDT. Yes, it is.

## STATEMENT OF HILDEGARDE HEIDT

Ms. HEIDT. Good morning, Mr. Chairman. It's certainly wonderful to be in Washington, D.C. This is my first trip here. It's a beautiful town, very friendly and I am enjoying it immensely.

Bill Imhoff and myself own the only privately owned parcel of land on the Main Stem of the Merced River below Briceberg and Lake McClure. We have lived there for 10 years year around on our 260 acres known as Mountain King Mine. We have done some gold dredging, but we are not into the mine shafts as yet.

Approximately one quarter mile of the river runs through our property so we write you and talk with you with intimate knowledge and experience of the area.

We believe S. 275 which includes the lower river below Briceburg is the bill which best serves the county, the state and the nation.

We first came to this lower river in 1973 and have watched its usage increase dramatically. You will find petitions [1] there signed by 1,100 people from Mariposa, one-third from the central valley and one-third from all over California and other states who came in just one week's time to this area below Briceburg. This is not unusual for usage all through the spring, summer and fall for over 1,100 people a week to come down there. This doesn't include their children, we didn't have them sign. I wanted to emphasize this.

These 8 miles are unique, and I feel this is why people do come to this area, because they can get down to the river easily, along the whole 8 miles there is the old Yosemite railroad grade which is not far above the river, as it is along 140, there is a rocky cliff.

Here they can drive campers down, set up their tents, bring their gold dredges or rafts and come right down to the sandy pools, swimming areas and fish on the river. It is a lower elevation which means year round they can come to this area.

We meet people down there from all over the state who are returning for the day or weeks to sit on the beach, pan for gold, do the things people like to do together as families because young people and grandparents can get down to the river from this access road.

Away from the traffic which is on 140 this is the only stretch really that is away from the main, like Senator Wilson said, a million cars a year travel 140. This is where you get away from that traffic.

The close proximity to areas of large population with no entrance or camping fees makes the location a recreational resource all can enjoy, not simply the more affluent who can afford to travel up to the park or young who may equip themselves and hike to more remote spots.

Also the North Fork canyon is part of the lower 8 miles. It is not included in the wild and scenic, but it would be protected and it is a favorite of John Muir's. You can walk 2 miles from the trail head

[1] The petitions were retained in subcommittee files.

after parking your vehicle and be up to a beautiful canyon with 30 foot wide waterfalls and jacuzzis. It's really beautiful.

Then the trail along the river continues to Lake McClure on the railroad right-of-way.

There are approximately 130, that is, of the approximately 130 miles of river canyon, 32 are in dam impoundments.

I know you are aware of the devastation. We have enclosed photos there of the Bagby area.

So the loss there would be a tragedy we all would suffer.

As you know, Mariposa is considered economically to be a poor county with little money for recreational facilities. There is one small public swimming pool in town. During the long hot summer months with temperatures sometimes rising over 105 degrees for weeks at a time most of our streams and creeks dry up.

This lower part of the river becomes the prime swimming area for many of the county's residents and as the enclosed petitions reveal, people from all over the state.

Where will the thousands of people go when the local camp grounds fill with tourists to capacity as well as Yosemite park?

The loss of this natural, recreational segment cannot be substituted anywhere else within the remaining corridor.

To finish I will say energy may be described in many ways. It may be equated with the money it brings to a few with small hydroprojects, it may be the dream of huge dams and energy may also be perceived in its natural form, energy as a river, free flowing to be enjoyed by families for generations to come who discover together the magic and piece it brings.

When a resource so rare and irreplaceable to so many is threatened by a few, when limited vision or narrow view to profit would lead some to destroy our natural inheritance, then we believe it is time for Congress to act.

We strongly support S. 275 and applaud its integrity and its foresight. Thank you very much for your time and I hope you will come visit us.

[The prepared statement of Ms. Heidt follows:]

Testimony of Hildegarde Heidt before the Subcommittee on
Public Lands, National Parks and Forests.
April 23, 1987

Mr. Chairman and Committee Members:

My name is Hildegarde Heidt. Bill Imhoff and myself own the only privately owned parcel of land on the main stem of the Merced River below Briceburg and Lake McClure. We have lived for the past 10 years on our 260 acres known as the Mtn. King Mine. Approximately one-quarter mile of the Merced runs through this property. So, we write you with intimate knowledge and experience of this area.

We believe S-275, which includes the lower River below Briceburg, is the Bill which best serves the people of this Community, the State and the Nation. We support this Bill along with the recommendations of the U.S.Forest Service and the National Parks Service.

We first came to this lower canyon of the Merced in 1973 and have watched its usage increase dramatically. Enclosed you will find petitions signed by over 1100 people, from Mariposa, the Central Valley, greater California and from others states who came to enjoy the River below Briceburg and who want to see it given Wild and Scenic River protection. These signatures were collected on the Briceburg Bridge within one week's time to demonstrate this area's heavy use.

These 8 miles are unique in that they offer an enhanced River experience with easy access, year round at this lower elevation, within a secluded and natural setting. At Briceburg, visitors turn away from busy Highway #140 and drive on the abandoned Yosemite Railroad right-of-way which provides a safe, unimproved vehicle access along the River for 5 miles. We meet people down the road from all over the State who are returning for the day or for weeks at a time to sit on the sandy beaches, pan for gold, fish for native trout or enjoy the large, safe swimming holes adjacent to three B.L.M. campgrounds. This is an ideal setting for entire families to share, from grandparents to grandchildren. Visitors come with tents, campers, gold dredges, rafts, kayaks or just picnic lunches to enjoy this secluded part of the River away from the

highway traffic heading towards Yosemite Park. The close proximity to areas of large population and no entrance or camping fees makes this location a recreational resource that all can enjoy, not simply the more affluent who can afford to travel greater distances to the Park or the young and fit who may equip themselves and hike to more remote spots.

The whitewater rafting through this lower 8 miles is the most dramatic and challenging on the entire River with most of the major rapids and one long continuous half-mile of whitewater ending with the Merced Falls just before the North Fork. The 6000-8000 people who pass by annually with guided one or two day tours bring tens of thousands of dollars into the local economy. Without this lower stretch, I doubt that this River would be financially practical for the 12 commercial companies to run. Thus, Mariposa County's tourist economy would suffer noticeably.

The history of gold mining since 1850 can be relived with the discovery of old stone homestead foundations, graveyards, water flunes and the remains of mill sites. This is also the home of unique wildlife exclusive to the River Canyon.

The North Fork Canyon, which was a favorite of John Muir's, may be reached by an easy 2 mile walk along the River from the trailhead 5 miles below Briceburg. Wildflower and bird-watchers, geologists and fishermen, hikers and back-packers all share the love of this untouched Canyon with waterfalls and deep pools winding for miles upstream. The easy trail then continues on along the Merced to Bagby on the Railroad right-of-way for those who desire more seclusion.

Presently, of the approximate 150 miles of River Canyon, 32 miles lie under dam impoundments. I know you are aware of the devastation this wrecks upon the natural riparian habitat. Enclosed is a photo of the Bagby area taken in a low water year (1985) but you can determine from the location of the docking facility that even during normal years there is still desolation all along the impoundment perimeter.

The possibility of losing the last 8 miles of River before this flatwater would be a tragedy from which we all would suffer. But none would suffer more than Mariposa County. As you may know, Mariposa is considered economically to be a poor County with little money for recreational facilities. There is one, old small public swimming pool in the town. During the long hot summer months, with temperatures sometimes rising over 105 degrees for weeks

at a time, most of our streams and creeks dry up. This lower part of the River becomes the prime swimming area for many of the County's residents and as the enclosed petitions reveal, people from the Central Valley as well. Thus it is a worry and concern to us that a possible dam constructed at Bagby or small hydro-projects would be considered if this section is not protected. Where would these thousands of people go with the local campgrounds filled to capacity as well as Yosemite Park? I have enclosed two essays from Mariposa school children describing what the River means to them and their friends. I think they speak for all of us who struggle for protection of this River.

The loss of this natural, recreational segment cannot be substituted anywhere else within the remaining corridor. Profit should never replace what millions of geological years have taken to create.

Energy may be discribed in many ways. It may be equated with the money it brings to a few with small hydro-projects, it may be the dream of huge dams and energy may also be preceived in its natural form, energy as a river, free-flowing to be enjoyed by families and generations to come who discover together the magic and peace it brings. When a resource, so rare and irreplaceable to so many, is threatened by a few, when limited vision or narrow view to profit would lead some to destroy our natural inheritance, then we believe it is time for Congress to act.

We strongly support S.275 and applaud its integrity and its foresight.

Thank-you.

*One copy of the signed petitions and photograph have been provided to the Subcommittee Staff.

## First place
## High School essay
### What the Merced River means to Me
**by Tracy Donaldson**

The Merced River is very special to me. Our friendship is like no other because it never lets me down, and is always there when I need it. The river provides me with happiness and friendship. I respect the Merced River greatly.

I find happiness on hot summer days when I can rely on it refreshing me with its clear cool water. The Merced River holds places to swim, barbecue and fish. The river provides enjoyment for many and it does not refuse anyone's company. I find joy in just knowing it's there, waiting for me.

The Merced River is a thing of beauty, but it is not to be taken lightly during the high water season. I like to watch the river as it goes through spring cleaning -- rearranging itself by rolling rocks downstream and clearing away dead trees and branches. During this time of year, the river tends to flaunt its independence to the world. I am happy for it knowing that it does not take its freedom for granted. I respect its greatness.

The Merced River is my friend. I can sit and talk to the river for hours and it will not complain or interrupt. The river talks to me as it surges over the many rocks and pebbles in its bed.

It calms me when I'm tense and soothes me when I'm sad. I can trust the Merced with all my secrets knowing that it will never tell. The friendship we share is untarnished by guilt or mistrust. Our trust in one another surpasses all.

The Merced River has watched me grow up and helped me through the rough times. I know that if I allow the river to be dammed, and its freedom to be taken away, I will have failed forever in our special friendship.

## First place
## Jr. High School essay
### What the Merced River Means to Me
**by Lisa Carisio**

The Merced River has always been a part of my life. In the summer it can be a very fun and interesting place to go. There are so many things to do there.

My dad and I used to put on goggles and float underwater with the current. We would slide our hands over the smooth and vivid rocks as the fish swam by. When the brightness of the river floor became too much we would turn over on our backs, still underwater, and watch the white bubbles float and swirl above us like silky white clouds.

I get a lot of exercise swimming there, or I can relax and watch the people. I like to play beach ball on the sand and try to swim up the raging current. My brothers love it when I tow them across the water to play on the animal-like rocks on the other side. But if you don't like much action, you can lie on the fine sand as if you were at the beach and listen to the laughter of children. When I'm feeling lazy, I go to one of the many spots on the river where there is a small waterfall crashing down into a hole and makes it like a jacuzzi.

My favorite thing to do there is diving. I start out on the smaller rocks to get the feeling of it, then I go to the high rocks where it feels more like flying than diving. I get all my nerves together, make sure my stomach is in the right place, then I lightly bounce off the rough edge of the cliff-like rocks. It seems forever before I finally slice through the water.

Last of all, think of the wildlife. Picture all the dried dead fish. The deer and raccoons would thirst to death.

Please, for the sake of the kids, animals and summer fun, don't dam up the river. It's a very beautiful place, and it's one of the only legal and fun places to be. Mariposa is already much too boring for us. It's sad that so many teens turn to drugs to have fun. If the river disappears there will be only memories to be relived and fantasies to be dreamed. A part of many people's lives will be gone.

Senator BINGAMAN. Thank you very much for that testimony. Why don't we dismiss this panel and take the last two witnesses who are also going to testify on S. 275, Eric Erickson, Mariposa County Supervisor and Joe Keating of Keating Associates, if they would please come forward.

## STATEMENT OF ERIC J. ERICKSON, MARIPOSA COUNTY BOARD OF SUPERVISORS

Mr. ERICKSON. Mr. Chairman, I am County Supervisor Eric Erickson.

Senator BINGAMAN. We are glad to have you here.

Mr. ERICKSON. Thank you. I am a member of the Mariposa County Board of Supervisors and Mariposa County Water Agency. I am a Mariposa County native, beginning my third term and ninth year in office.

I am here today at the specific direction of the Mariposa County Board of Supervisors and County Water Agency to speak in opposition to Senate Bill 275 in its present form.

Mariposa County strongly opposes including the 8 mile long stretch of the Main Stem of the Merced River between Briceberg and Lake McClure. It is the lowest end of the designation, it's not in the middle, would be detached and is at the lowest elevation.

We ask for this because in 1960 Mariposa County and Merced Irrigation District settled a dispute of water rights arising out of the M.I.D.'s filing for unappropriated water for the river originating in Mariposa County.

This stipulates that M.I.D. will not dispute depletion of stream flow in the quantities set forth in subparagraphs a, b and c by future appropriations of water for reasonable beneficial use within Mariposa county; provided such future appropriations shall be initiated and consummated pursuant to law.

From the South Fork of the Merced River a maximum of 500 cubic feet per second of water not to exceed a total of 112,000 acre feet annually by direct diversion to beneficial use and or by diversion to storage to be later applied to beneficial use.

Locking up the resources of the South Fork most probably means this entitlement will have to be moved below Briceburg or will be forever lost to the future residents of Mariposa County.

State Highway 140 runs up-river from Briceburg to El Portal. Impoundment is precluded in this portion of the canyon by the highway location and the scenic and recreational importance of this portion of the river canyon.

The only remaining stretch of the river in which this water could be impounded and removed is that portion below Briceburg downstream to Lake McClure.

Since 1960 Mariposa County has committed a lot of time and money to other water studies to study our present and future water requirements.

Presently, feasibility studies are being done to more fully utilize water for the Stockton Creek watershed, not a Merced River tributary, this is for the community of Mariposa. However, future expansion of surface water use would mean utilizing Merced River water.

In the past considering agricultural and tourism base of the county coupled with small population, water projects have not been feasible. But today there is a tremendous resurgence of interest in our mining and industrial potential. Mariposa County now supports a residential population of 15,000. Between the 1970 and 80 census the county grew 85 percent. We expect similar growth between the 80 and 90 census.

In 1980 the Mother Lode counties including Mariposa represented 1.66 percent of the total population of the State of California.

The California State Department of Finance Population Unit has projected by 1990 the Mother Load counties will represent over two percent of the total population. It corresponds to around almost half a percent, which in real numbers is 150,000 people.

In addition to the projected growth, in 1986, 3 million people visited Yosemite National Park. Of these approximately 900,000 traveled up Highway 140.

Each of these visitors taxes the water resource, resources of the county and water is the most severely limiting factor. Designation of the entire river to Lake McClure would take away a tangible, real, measurable resource the county has planned on for nearly three decades.

We ask that you amend this bill to exclude from the act that short 8 mile portion of the Merced River below Briceburg from the total 82 miles of the main river in the bill to allow Mariposa County to best utilize our limited basic resource, for the benefit of all present and future residents of Mariposa County I think it is important to point out we are asking for an 8 mile deletion which is six percent of 125 miles in this bill. This is at the lowest end.

I know it is true that beauty is in the eye of the beholder but at the 800 foot elevation which you heard from Senator Wilson where it enters Lake McClure, from personal experience and 39 years living in the county, you can see plenty of poison oak, the rattle snakes are in the shade because the temperatures are often in excess of 100 degrees Fahrenheit.

Since my name was mentioned by Mr. Kuntsman, Mr. Kuntsman has had benefit of my views regarding the Merced River for a long period of time.

It appears he has failed to listen. I, as you understand, sir, as an elected official I speak from a position of responsibility. And the views that I have I truly believe are representative.

From the statement that you have before you from J. Anderson of the Merced Irrigation District, he points out a half million people use Lake McClure which is below this designation and they service residents within their district of 75,000.

Add that to a Mariposa County population of 15,000 and add the tourists, which could mean 900,000 using up the canyon, and you have potential for 1.5 million users per year of the volume of river water other than its natural state.

We ask your consideration. Thank you.

I also have a statement to give to the committee, to hand to the committee of Supervisor Bagget, whose individual views are not in concurrence with the position of the board.

[The prepared statement of Mr. Erickson follows:]

Mariposa County
Board of Supervisors

DISTRICT 1..... ARTHUR G. BAGGETT, JR.
DISTRICT 2..... EUGENE P. DALTON, JR.
DISTRICT 3..... ERIC J. ERICKSON
DISTRICT 4..... LEROY RADANOVICH
DISTRICT 5..... GERTRUDE TABER

MARGIE WILLIAMS
Clerk of the Board
P. O. Box 784
MARIPOSA, CALIFORNIA 95338
(209) 966-3222

WILD AND SCENIC RIVERS ACT S.275

STATEMENT OF

SUPERVISOR ERIC ERICKSON

FOR

MARIPOSA COUNTY BOARD OF SUPERVISORS

AND

MARIPOSA COUNTY WATER AGENCY

MARIPOSA COUNTY

STATE OF CALIFORNIA

BEFORE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

THE HONORABLE DALE BUMPERS, CHAIRMAN

APRIL 23, 1987

SUBJECT: WILD & SCENIC STATUS FOR THE MERCED RIVER

ACTION REQUESTED: AMEND S.275

73-455 0 - 87 - 5

Mr. Chairman and Honorable Members of the Subcommittee. I am Mariposa County Supervisor Eric Erickson, and a member of the Board of Directors of the Mariposa County Water Agency. I am a life-time resident of Mariposa County and now beginning my ninth year and third term in office. At the direction of the Mariposa County Board of Supervisors and the Mariposa County Water Agency, I speak in opposition to S.275 in its present form. Mariposa County strongly opposes including in the Wild and Scenic Rivers Act, the approximately eight-mile long stretch of the main stem of the Merced River between Briceburg and Lake McClure.

In 1960 Mariposa County and the Merced Irrigation District (M.I.D.) settled a dispute of water rights arising out of M.I.D.'s filing for unappropriated water of the Merced River originating in Mariposa County. This settlement stipulates that M.I.D. will not dispute

> "...depletion of stream flow in the quantities set forth in subparagraphs (a), (b) and (c) by future appropriations of water for reasonable beneficial use within Mariposa County; provided such future appropriations shall be initiated and consummated pursuant to Law.
>
> (a) From the South Fork of the Merced River a maximum of 500 cubic feet per second of water not to exceed a total of 112,000 acre-feet annually by direct diversion to beneficial use and/or by diversion to storage to be later applied to beneficial use...."

Locking up the resources of the South Fork most probably means that this entitlement will have to be moved to a point below Briceburg or will be lost to the future residents of Mariposa County. State Highway 140, the Yosemite all-weather route, runs up-river from Briceburg to El Portal. Impoundment is precluded by the highway location and the scenic and recreational importance of this portion of the River canyon. The only remaining stretch of the River in which this water could be impounded and removed is that portion below Briceburg down-stream to Lake McClure.

Since 1960, Mariposa County has committed a great deal of time and money to study our present and future water requirements. Presently feasibility studies are being done to more fully utilize water from the Stockton Creek watershed, not a Merced River tributary, for the community of Mariposa. However, future expansion of surface water use would mean utilizing Merced River water.

In the past, considering the agricultural and tourism base of the County coupled with a small population, water projects for the benefit of the County involving the waters of the Merced have not been feasible. However, today there is a resurgence of interest in our mining and industrial potential. Mariposa County now supports a residential population of over 15,000. Between the 1970 and 1980 National Census, Mariposa County grew by 85%.

We expect a similar growth between the 1980 and 1990 National Census. In 1980, the Mother Lode counties, including Mariposa County, represented 1.66% of the total population of the State of California. The California State Department of Finance, Population Unit, has projected by 1990 the Mother Lode counties of the State of California will represent 2.15% of the total population of the State of California. It can easily be seen that a rise from 1.66% to 2.15% of the total population of the State of California is a significant population increase. In addition to the population growth, in 1986 approximately 3,000,000 persons visited Yosemite National Park. Of those approximately 3,000,000 persons, approximately 900,000 traveled through the populated areas of Mariposa County via Highway 140. Each of these visitors taxes the water resources of the County. Water is our most severely limiting factor. Designation of the entire River to Lake McClure would take away a tangible, real, measurable resource that Mariposa County has counted on and planned for for nearly three decades.

We ask that you amend this Bill to exclude from the Act that short eight-mile portion of the Merced River below Briceburg from the total eighty-two miles of the main River in the Bill to allow Mariposa County to best utilize our limited basic resources for the benefit of all present and future residents of Mariposa County.

Senator BINGAMAN. We are glad to include that statement in the record and any other comments that you have there in writing.

Mr. Keating, did you have additional comments?

## STATEMENT OF JOSEPH M. KEATING, KEATING ASSOCIATES

Mr. KEATING. Yes, Mr. Chairman, I am Joseph Keating speaking on behalf of the El Portal Project. Thank you for allowing me the opportunity to express my concern in opposition towards the proposed legislation as it is now drafted.

My opposition to the proposed legislation, briefly summarized, the bill as proposed is an initiative design, yet this project is environmentally sound and would be located on a reach of the river already significantly developed.

The subject of extensive public and private development plans, designation as wild and scenic has already extensively, this already extensively developed stretch of the Merced River is ill-founded and misapplication of the legislative intent of the Wild and Scenic Rivers Act in my opinion.

The project proposed was located adjacent to a reach of the Merced River that is outside the national park boundary. Contrary to rumors currently circulating about the project, water will not be backed up into the park by the projects diversion features and the river will not be dried up.

Also the specific area to be affected does not invoke images of natural scenic beauty suitable for designation as wild and scenic.

Common to the area are gas stations, grocery stores, hotels, paved highways, power transmission lines and towers, sand pits, storage yards, active and abandoned mines, community health hotel and a large 2 million gallon per day sewage treatment facility that treats the waste water from the national park for discharge directly into the Merced River.

Located approximately 12 miles upstream from the proposed project inside the Yosemite Park is an existing dam, a power house facility that had been operated within the park for the past 65 years generating power for the park's use. This facility was recently abandoned by the National Park Service, apparently to permit the park to oppose the El Portal project.

The project is a small scale hydro facility with diversion structure for the project being only 8 feet in height and would be similar in size and appearance to the existing upstream dam managed by the National Park Service.

A tunnel would transport water to the powerhouse 4 miles downstream and electricity generated from the project would interconnect to an existing Pacific Gas and Electric Company transmission line.

Diversion structure for the project and portion of the tunnel are located on private lands in which I have an easement and the owners of the land strongly support development of the project.

These people have an entitlement. They pay taxes on the property. This is the point of diversion proposed. I don't know what happens to the value of their property if it takes place. I am sure they would be interested and concerned about it. That was mentioned

earlier by somebody else, and I think it would be a courtesy if somebody could inform them of that limitation.

Extensive biological studies have been conducted over the past several years to quantify project impacts and provide guidelines for project mitigation measures.

The project will not devastate the areas as proponents suggest. In fact, opportunities exist with the project that will actually enhance certain resource values, including swimming, hiking and fishing.

Reduction in flow of this section of the river would be beneficial for the summer months for body contact sports and fishing.

I just happened to notice an article in Sunset Magazine where actually they were recommending people to go fish because the water would be so low there this year. That is an interesting sideline to what has taken place.

The project would generate 75 million kilowatt hours a year, 22 megawatt capacity power plant equivalent to 122,000 barrels of oil.

Through the expected life of this project 8½ million barrels of oil imports would be saved. I know we have forgotten what it was like 10 years ago but we are going to face it again.

It seems we have to, with our resources, I believe, look at balancing our resources, not exclusively using one or the other.

This is a case I believe where there is great compatibility with the proposed project.

In addition each year the project will pay approximately $350,000 to Mariposa County in local property taxes. You heard the size of the county, it's very small. This is a very significant amount of dollars for them.

Recreation wildlife and fish enhancement fund would be established in the amount of 52,000 a year, to be escalated annually the first 10 years of the project. These project benefits go completely unrecognized by the opponents.

On the regulatory side the proposed project is in the application stage only. An environmental impact statement is being prepared by the Federal Energy Regulatory Commission at a cost to the public of $350,000, currently ongoing at this time. The results of the environmental impact analysis won't be available until late fall of this year.

Until that time no development action with regard to the project can be taken by the FERC.

I recommend against passage of this bill in its present form.

Instead I recommend the scientific and technical analysis that is now being done by the Oak Ridge National Laboratory and supervised by the FERC provides the basis for determining whether an efficient clean renewable energy project can be successfully developed in a manner that is compatible with designation of recreation uses and environmental resources of the project area. I believe it can.

Up until only recently, about 6 months ago, it was my understanding and that of the Forest Service that a designation of recreation would not preclude this project. This came up I assume about 6 or 8 months ago when you were finalizing the recreation bill.

I have been working 6 years with government agencies at a cost exceeding $450,000 from private sector investment to perform such

studies and to make these decisions. The government meanwhile has spent an unknown amount in addition to the $350,000 now budgeted to do the E.I.S. I hope to continue with this analysis. It is important. It affords us as a nation an opportunity to develop a renewable source of clean energy.

I believe this is not only important but consistent with the legislative intent of the Public Utility Regulatory Policy Act from which this project was conceived.

I would be pleased to answer any questions you may have on this.

[The prepared statement of and a subsequent submittal from Mr. Keating follow:]

KEATING ASSOCIATES
CONSTRUCTION CONSULTANTS

847 PACIFIC STREET
PLACERVILLE, CALIF. 95667
PHONE: (916) 622-9013

April 14, 1987

Senator Dale Bumpers, Chairman
Public Lands, National Parks and Forests
Committee Room
SD 364 Dirksen Building
Washington, D.C.

Subject: Senate Subcommittee
Hearing April 23, 1987 -
Merced River

Dear Senator Bumpers:

This letter is a request to appear before the Subcommittee as a witness on April 23, 1987. I am opposed to a blanket designation that would preclude development of the pending FERC license application No. 7581.

I have, as a private developer based on the PURPA enabling legislation, been working on the project since 1981. To date, we have spent over $400,000, and the FERC is spending $250,000 completing the EIS for the project.

Attached are major California newspaper editorials and my people efforts at correcting the misinformation that I believe may preclude a fair hearing on this hydro project's merits and lack of negative impacts.

Because of the repeated misinformation and the need for correction, I believe it would be very appropriate, and I request that your Subcommittee invite a representative of the FERC to appear to answer specific questions related to the project.

To better familiarize your staff with the project I have enclosed the original license application to the FERC and supplemental information requested by the FERC. Also enclosed is the FERC "Scoping Document II" received yesterday that identifies the extensive review the project has received and will yet be subjected to in the EIS process.

Senator Dale Bumpers April 14, 1987

I will contact your office on April 20, 1987.

Thank you.

Sincerely,

Joseph M. Keating

JMK:jls

enclosures: FERC License Application
Supplemental Submittal (December 1985)
Newspapers Articles and Responses
FERC Scoping Document #1
House Subcommittee Testimony

cc: Chairman, FERC
Subcommittee Members
California Senator Pete Wilson
California Senator Alan Cranston

KEATING ASSOCIATES
CONSTRUCTION CONSULTANTS

847 PACIFIC STREET
PLACERVILLE, CALIF. 95667
PHONE: (916) 622-9013

April 13, 1987

William Penn Mott, Jr.
Director, National Park Service
Post Office Box 37127
Washington, D.C. 20013

**Reference: Your Public Statement Relative to the El Portal Project, FERC No. 2581**

Dear Mr. Mott:

I believe the attached correspondence is self-explanatory.

I called your office when the Modesto Bee identified you as the source of the misinformation for the attached editorials just received.

As you will note, editorial writers seem to feed off each other's writing without independent research of the facts or the identifying of the source of their information.

While it is impossible to unring the bell of misinformation, I am sure the NPS will want to do its best to correct such misinformation should a representative appear before the Senate sub-committee regarding the Wild and Scenic River Bill.

Sincerely,

James M. Keating

JMK:jls
encl.
cc: Senate Subcommittee
FERC ✓

KEATING ASSOCIATES
CONSTRUCTION CONSULTANTS
847 PACIFIC STREET
PLACERVILLE, CALIF. 95667
PHONE: (916) 622-9013

April 13, 1987

Bill Stahl
Editorial Writer
Los Angeles Times
Times/Mirror Square
Los Angeles, CA 90053

Dear Mr. Stahl:

Enclosed is some correspondence generated by your editorial and those of the three Bee's in the Valley.

It seems the seeds of misinformation originated with the National Park Service. A Mr. John Halbert of the NPS (202-343-4290) called today and volunteered that even with accurate information they would have opposed the project. He seemed to have missed the major point - that my greatest concern was not the Park Service's opinion - but rather their promulgation of the misinformation.

Also enclosed is my testimony before the House Subcommittee for your review as well as a just-received Scoping Document II of the EIR being prepared by the FERC.

Sincerely,

Joseph M. Keating

JMK:jls

encl.

Part II/Wednesday, April 1, 1987

Los Angeles Times
A Times Mirror Newspaper

*Publishers*
HARRISON GRAY OTIS, *1882-1917*
HARRY CHANDLER, *1917-1944*
NORMAN CHANDLER, *1944-1960*
OTIS CHANDLER, *1960-1980*

TOM JOHNSON, *Publisher and Chief Executive Officer*
DONALD F. WRIGHT, *President and Chief Operating Officer*
WILLIAM F. THOMAS, *Editor and Executive Vice President*
VANCE L. STICKELL, *Executive Vice President, Marketing*
LARRY STRUTTON, *Executive Vice President, Operations*

JAMES D. BOSWELL, *Vice President, Employee and Public Relations*
WILLIAM A. NIESE, *Vice President and General Counsel*
JAMES B. SHAFFER, *Vice President, Finance and Planning*

GEORGE J. COTLIAR, *Managing Editor*
ANTHONY DAY, *Editor of the Editorial Pages*
JEAN SHARLEY TAYLOR, *Associate Editor*

# Urgent: a River Needs Help

In almost record time, a bill to grant wild-and-scenic-river status to a California stream has been considered in committee and passed by the full House of Representatives. The House voted its approval Tuesday of legislation sponsored by Rep. Tony Coelho (D-Merced) to incorporate the south fork and most of the main stem of the Merced River, which flows out of Yosemite National Park, in the national system of wild and scenic rivers.

Congress will have an opportunity in 1987 to afford wild-and-scenic-river protection to major stretches of at least three Sierra-spawned streams: the Kings and the Kern, as well as the Merced. The undammed portions of all these spectacular streams are worthy of such designation, and Congress should complete action this year. Most urgent, however, is protection for the Merced, because of a pending application for a hydroelectric power project just 500 feet downriver from the western boundary of Yosemite.

Developer Joseph M. Keating has applied for a license from the Federal Energy Regulatory Commission to build a dam at El Portal, just outside Yosemite, to capture the Merced's waters and divert them seven miles through a 12-foot-wide tunnel for the generation of electric power. Although the dam would be only 10 feet high, it would back waters into park territory. The diversion would leave that stretch of the Merced, the grand entryway to Yosemite Valley, totally dry for as much as nine months of the year. The idea of devastating a highly popular stretch of this scenic river for a minimal amount of electric power is ludicrous.

Various local organizations as well as the National Park Service, the U.S. Forest Service and the U.S. Bureau of Land Management all support wild-and-scenic status for the Merced. A similar bill sponsored by Sens. Alan Cranston (D-Calif.) and Pete Wilson (R-Calif.) has been introduced in the Senate. Now that the House has acted, the Senate should join in putting a quick end to any further thoughts of damming the Merced on the very doorstep of Yosemite National Park.

KEATING ASSOCIATES
CONSTRUCTION CONSULTANTS
847 PACIFIC STREET
PLACERVILLE, CALIF. 95667
PHONE: (916) 622-9013

April 5, 1987

Mr. Richard F. Davis
Commercial Vice President
BBC Brown Boveri, Inc.
704 East Mira Monte Place, Suite 3
Pasadena, CA 91101

Subject: El Portal Project
FERC #2588

Dear Richard:

Thank you for your letter and the newspaper clipping.

I am flabbergasted at the editorial in the Los Angeles Times..

Your alarmed reaction is proper if you believe the facts as stated by the newspaper. I appreciate your question "if the facts are as stated".

I assure you that with my proposed project the river would not be dried up nine months of the year and the park would not be flooded, the tunnel is less than four miles long, not seven miles long. As a matter of fact, the minimum proposed flow is about two times the normal late low summer flow. Our proposal is for a minimum flow of 60 cfs.

For a newspaper responsible to their readers, who number in the millions, to actually print "the diversion would leave that stretch of the Merced, the grand gateway to Yosemite Valley, totally dry for as much as nine months of the year" without putting in a phone call to "Developer Joseph M. Keating" is more than a casual oversight in my opinion. No responsible writer, in reviewing his draft, would not question the above wording as you have.

How do I go about correcting the proper reaction of outrage like yours that was registered upon reading such pure fabricated lies?. How do you unring a bell? Certainly the story could not be considered a quick-breaking news event, that could not be checked out, that must be identified to the Western world without delay as indicated by the heading of "URGENT: A River Needs Help".

I have been gravely damaged by the article in my ability to expect fair treatment of my proposed project and others I am working on. That we have expended over $400,000 developing the project and the FERC has budgeted, and is spending, $750,000 to do an EIS to evaluate the science is meaningless with this type of alarmist preservationist pressure on Congress.

Thank you again for the consideration of the possibility that something did not seem right with the editorial.

Sincerely,

Joseph M. Keating

Joseph M. Keating, License Applicant

April 3, 1987

Mr. Joseph M. Keating
KEATING ASSOCIATES
847 Pacific Street
Placerville, California 95667

Dear Joe,

I suddenly realized that it has been a long time since we last met or even talked on the telephone. I still have fond memories of our discussions and tromping around in the hills looking at potential hydro projects. As you know, Brown Boveri has really phased out of the packaged hydro business and is primarily interested in providing complete electrical systems for 25 MW and larger plants, with some success I might had.

Enclosed is an editorial from the Los Angeles Times dated April 1 which you may already have seen by the time you receive this letter. The editorial is alarming. I must say that if the facts are as stated that I would also have to strongly object to the project as a citizen of the state and a true lover of the Yosemite area. Joe, I'm sure that you have a number of projects that can be developed without the negative environmental impact of EL Portal. You yourself live in a beautiful part of the state and appreciate the unique environment. Please reconsider your plans to develop El Portal and not disturb our precious and irreplaceable resources.

On a less sober note, I hope that you would give me a call if you are ever in Southern California.

Best regards,

Richard F. Davis

APR 6 1987

KEATING ASSOCIATES
CONSTRUCTION CONSULTANTS
847 PACIFIC STREET
PLACERVILLE, CALIF. 95667
PHONE: (916) 622-9013

April 10, 1987

Mr. C. K. McClatchy, Editor
Sacramento Bee, Fresno Bee, Modesto Bee
21st & Q Streets
Sacramento, CA

Subject: El Portal Project, FERC #3581

Dear Mr. McClatchy:

This responds to the Sacramento Bee editorial of April 3, 1987 entitled "Saving the Rivers" regarding a proposed hydroelectric project on the Merced River.

I spoke with your writer today who claims responsibility for the editorial. Mr. Bill Kahrl, who referenced your sister newspapers, the Modesto Bee and the Fresno Bee as sources.

I have also contacted the Los Angeles Times that has written a similar article on the Merced; the Los Angeles Times also claims your newspapers as sources. (see attached)

I am cognizant of the powers of the press as I feel threatened by your editorials because many of the facts stated in your editorial about the proposed project are simply wrong and have, accordingly, damaged me personally and professionally. Unless your intent was to accomplish this, I ask that you correctly state the facts.

First, the proposed project is considered by law to be a small hydroelectric facility with a run-of-river diversion structure of a height no greater than eight feet. Such a diversion will not back up water into Yosemite Park as your editorial incorrectly states. This diversion and impoundment (an area of about one acre) is located entirely on private land that I have acquired for this purpose. Please keep in mind that the National Park Service has been operating a similar dam within the Park in the same reach of river for the past 62 years. Furthermore, the project is located adjacent to an area already considerably developed, not an untouched, pristine stretch of river as your editorial suggests. For example, the project passes a National Park Service sewerage treatment facility that treats all of the human waste generated by the National Park and then discharges into the Merced.

Also, your editorial incorrectly states that a portion of the river below the proposed diversion will be "dried up ... for nine months of the year." In this day and age with all the environmental consciousness available, it is inconceivable to me that a writer or a newspaper could believe that any river in the U. S., let alone in California, could be "dried up" by any development project. The fact is that based on substantial scientific studies, including the U.S. Fish and Wildlife Services' Instream Flow Incremental Study, the project proposes to bypass at all times at least 50 cfs below the point of diversion, a flow which is about two times as much as the normally occurring low summer flow in the Merced. During the winter and spring runoff period when flows are naturally high, considerable volumes of water will overtop the run-of-river diversion with no signs of a project at all. (Attached is my testimony to the House Sub-Committee given on March 5, 1987).

It is also important to keep in mind the genesis of this and other similar clean, renewable energy projects: a law passed by the House and Senate and signed into law by the President of the United States in 1978 when America faced the darkening threat of energy dependence, a law known as the Public Utilities Regulatory Policies Act. The legislative intent of this law was and is to encourage the development of such projects so that new domestic sources of renewable energy could be developed in a manner that would free America from energy dependence on fuel imports. The application for this proposed project on the Merced River was originally made in early 1980 pursuant to the PURPA legislation. Since that time literally hundreds of thousands of dollars have been expended in scientific studies to ensure protection of target environmental resources. The project is not a "preposterous proposal" or an "obscene proposal" as your editorial states, but is a carefully prepared technical proposal that has been reviewed by local, state and federal agencies. In all cases of this review, the public has provided input, and great care has been taken to accommodate all concerns of the public and environmental agencies.

The reality of the present situation is that the price of oil has fallen from $35.00 a barrel in 1981 to approximately $18.00 a barrel now. Prices of gasoline at the pumps have similarly fallen from a high in 1981 of $1.39 to a current price of $.89 a gallon. The alternatives to clean, renewable energy such as PG&E's monstrous Diablo Canyon are pumping, in a seemingly unregulated manner, thousands of megawatts of capacity into the grid. Acid rain continues to kill thousands of lakes and is poisoning our relationship with our Canadian neighbors to the North. On these accounts, the press continues to fall short in its responsibilities to the Nation and to California. The public at large, as if unaware of our recent past, continues to consume, and the new generation has forgotten the lines at the gas pumps or double-digit inflation, and America held hostage by OPEC.

Such times will return. A seismic fault near Diablo Canyon could cause early de-commissioning, if not a disaster of Chernobyl proportions, and then won't it seem ludicrous that clean, renewable energy, generated from something as simple as clean, falling water will forever remain untapped and unavailable by virtue of legislation gone awry locking the Merced and other waterways in Wild and Scenic River status forever?

Your personal attention to correct your multiple editorial errors would be welcome.

Sincerely,

Joseph M. Keating

JMK:jls

encl.

cc: Mr. Bill Kahrl, Sacramento Bee
Los Angeles Times
William Penn Mott, Director, National Park Service

# Hydropower at Yosemite's edge?

Developer Joseph M. Keating of Placerville has plans to dam the Merced River at El Portal, just outside Yosemite National Park. Keating would remove water from the Merced 500 feet outside the park and run it through a 12-foot-diameter pipe down the side of the mountain to an electric generator. The proposal has no merit.

As William Penn Mott Jr., director of the National Park Service, notes, Keating's project would "dewater" the river. For as much as nine months of the year, it would take all the water from the Merced and return it to the river five miles downstream.

Keating, who is seeking a federal license for the project, proposes to sell electricity to PG&E under favorable "avoided cost" provisions that were established during the last national energy crisis. He, of course, argues that the project would be beneficial, and would not harm the natural, free-flowing river in a wilderness setting.

But all is not lost. It seems likely the river and its south fork will be protected from Keating's threat and all other efforts at exploitation by the best means available — wild and scenic status. Bills in Congress would preserve the upper Merced and its south fork.

Congressman Tony Coelho's bill would preserve most of the river above Lake McClure, but would exempt from wild and scenic status an eight-mile stretch of Merced River canyon for five years.

Sen. Pete Wilson's bill, supported by Sen. Alan Cranston, includes the eight-mile portion Coelho would exempt.

The two bills, assuming they pass their respective houses, will reach final form in conference committee. After that, approval by the president can be assumed since wild and scenic status is supported by all the affected federal agencies.

The reason Congressman Coelho would exempt an eight-mile stretch above Lake McClure is to satisfy concerns of the Mariposa County supervisors, who nourish the hope that some kind of water project will be developed some day to bring prosperity to their county. Members of the board have even talked of the possibility of selling some of the river water to Southern California.

The Merced Canyon Committee argues that achieving wild and scenic status would not foreclose development of river water for domestic use. Ron Stork of Mariposa, the group's chairman, makes the point that dams for power generation or water diversion or sale on that lower stretch of river are not practical anyway, unless energy prices should rise substantially.

The future of the eight-mile stretch of river below Briceburg is very much a concern of the committee, a 4-year-old organization with 600 members based in El Portal. The committee wants the entire river, from the high Sierra headwaters to the Merced Irrigation District's Lake McClure, put under federal protection.

The committee has done an exemplary job in identifying the values at stake without creating an undue amount of animosity. It has made the point effectively that the animal and plant life a living river nourishes, and the beauty of a wild, flowing stream — these are more important than another hydro development.

A brochure, "The River — The Threat," distributed by the committee, quotes John Muir: "Many a joyful stream is born in the Sierra, but not one can sing like the Merced ... of sublime Yosemite she is the voice."

Why muffle the melody of those mountains?

APR

# Editorials

The Modesto Bee
Published by McClatchy Newspapers since 1927
Vol. 110, No. 81

SANDERS H. LaMONT, executive editor
MARK S. VASCHE, managing editor
DAVID J. CUMMEROW, editorial page editor
WILLIAM L. McSWAIN, JR., associate editor
EDWARD K. WILLHIDE, metro editor
JOHN W. WARD, general manager

## A dam at Yosemite's edge?

HYDRO POWER developer Joseph M. Keating of Placerville has plans to dam the Merced River at El Portal, just outside Yosemite National Park. It's a proposal all Californians should reject.

Keating would remove water from the beautiful Merced 500 feet outside the park and pipe it down the side of the mountain to an electric generator.

As William Penn Mott Jr., director of the National Park Service, notes, Keating's project would "dewater" the river. For as much as nine months of the year, it would take all the water from the Merced and return it to the river five miles downstream.

Keating proposes to sell electricity to Pacific Gas & Electric Co. under favorable "avoided cost" provisions that were established during the last national energy crisis. He, of course, argues that his project would be beneficial, would wreak no havoc on nature, would not harm the natural, free-flowing river in a wilderness setting.

Keating is seeking a federal license to harness the river with a dam, pipe it through the long, 12-foot diameter tunnel, and install hydroelectric facilities near a riverside park called Redbud.

**BUT ALL IS NOT LOST.** It seems likely, this year, the river and its south fork will be protected from Keating's threat and all other efforts at exploitation, by the best means available — Wild and Scenic status.

- Congressman Tony Coelho's bill would preserve most of the river above Lake McClure, but would exempt from Wild & Scenic status an eight-mile stretch of Merced River canyon for five years.
- Sen. Pete Wilson's bill, also supported by Sen. Alan Cranston, includes the eight-mile portion Coelho would exempt.

The two bills, assuming they pass their respective houses, will reach final form in conference committee. After that, approval by the president can be assumed since Wild & Scenic status is supported by all the affected federal agencies.

**THE REASON** Congressman Coelho would exempt an eight-mile stretch above Lake McClure is to satisfy concerns of the Mariposa County Board of Supervisors. The supervisors nourish the hope that somehow some kind of water project will be developed to bring prosperity to their county. Members of the board have even talked of the possibility of selling some of the river water to Southern California.

The Merced Canyon Committee argues that achieving Wild & Scenic status would not foreclose development of river water for domestic use. Ron Stork of Mariposa, the group's chairman, makes the point that dams for power generation or water diversion or sale on that lower stretch of river are not practical anyway, unless energy prices should rise substantially.

The future of the eight-mile stretch of river below Briceburg is very much a concern of the committee, a four-year-old organization with 600 members based in El Portal. The committee wants the entire river, from the high Sierra headwaters to the Merced Irrigation District's Lake McClure, put under federal protection.

It is to the committee's credit that it has wide support for its position. The committee has done an exemplary job in identifying the values at stake without creating an undue amount of animosity.

It has made the point effectively that a living river, with all the life it nourishes — all the trees, the wildflowers and animals — even the idea of a wild, flowing stream, these are more important than another hydro development.

A brochure, "The River — The Threat" put out by the committee quotes John Muir: "Many a joyful stream is born in the Sierras, but not one can sing like the Merced. ... of sublime Yosemite she is the voice."

Why muffle the melody of those mountains?

The Sacramento Bee

Locally owned and edited for 130 years
JAMES McCLATCHY, editor, 1857-1883
C.K. McCLATCHY, editor, president, 1883-1936
WALTER P. JONES, editor, 1936-1974
ELEANOR McCLATCHY, president, 1936-1978
Volume 281
Wednesday, April 8, 1987

C.K. McCLATCHY, editor
GREGORY E. FAVRE, executive editor
PETER SCHRAG, editorial page editor
FRANK R. J. WHITTAKER, general manager

Editorials

# Saving The Rivers

The House of Representatives has acted swiftly to quash a preposterous proposal to dam the Merced River at the entrance to Yosemite Valley. By granting the stream wild and scenic river status and by working out a compromise over efforts to provide much the same protection to the upper reaches of the Kings River, Congress has virtually ensured that two of California's most beautiful rivers will continue to run free.

Congressman Tony Coelho's bill on behalf of the Merced will block a private developer's plans to install a hydroelectric power project 500 feet downstream from the boundaries of Yosemite National Park. The project would have backed up water into the park and dried up a portion of the river below for nine months of the year. Since Coelho's bill has the support of both of California's senators as well as all of the federal agencies that would be affected, there isn't much doubt that this obscene proposal will soon be assigned to the ash heap where it belongs.

Although Rep. Richard Lehman claims he doesn't want to "rub it in," he is likewise declaring victory in his efforts to prevent a consortium of Central Valley irrigation districts from erecting a dam at Rodgers Crossing on the Kings. But the compromise Lehman has worked out with his fellow Fresno congressman, Charles "Chip" Pashayan, could rub both ways.

If ever a stretch of river deserved to be kept in its natural state, it is the upper Kings. It includes the greatest undammed drop of any river in the United States — 11,449 feet from its headwaters near the Sierra crest to Pine Flat Dam above the Tulare Lake Basin. Along the way, it flows through one of the deepest canyons in North America and supports California's largest wild trout fishery. And all of its unspoiled beauty is readily accessible by a system of national trails to more than 15 million people who live only a few hours' drive away.

The Rodgers Crossing project, in contrast, has been studied seven times in the last 20 years, and its proponents still haven't been able to make a convincing case for its economic feasibility. Lehman had the support of Sen. Alan Cranston and 111 co-sponsors in the House to put 92.5 miles of the south and middle forks of the Kings into the national wild rivers system. But in a deal with Pashayan, who wanted initially to keep the dam site completely open to development, Lehman agreed to put the Rodgers Crossing stretch of the river into a so-called Special Management Area under the protection of the federal Forest Service.

That means that the Kings will gain some protection but not nearly as much certainty of survival as it would have enjoyed if Lehman had stuck with his original proposal. Some future Congress could, of course, always revive the Rodgers Crossing project no matter what kind of status this Congress accords to the Kings. But no river has ever been taken out of the federal wild and scenic rivers system. And when the stakes are this high, Lehman would have been justified in pressing for a complete victory, not just a partial one.

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

MEMORANDUM TO: THE AGENCY/INDIVIDUAL ADDRESSED

FROM: Frank Karwoski and Brian Romanek
Office of Hydropower Licensing

SUBJECT: Scoping of Environmental Issues Related to the Proposed El Portal Hydroelectric Project, FERC No. 3581

Keating Associates filed an application with the Federal Energy Regulatory Commission (FERC) on February 28, 1984, for construction and operation of the proposed El Portal Hydroelectric Project, located on the Merced River at El Portal, Mariposa County, California. Issuing a license for the project would constitute a major Federal action by FERC significantly affecting the quality of the human environment; therefore, FERC staff will prepare an Environmental Impact Statement (EIS) prior to any FERC licensing decision. EIS preparation will continue to be supported by a vigorous and ongoing scoping process to ensure the identification and analysis of all pertinent issues.

Attached is a document entitled "Scoping Document II" which supplements the November 1986, "Scoping Document I." The initial scoping document was provided to participants at the scoping session held in Sacramento, California. Scoping Document II discusses changes that are being made in the El Portal EIS based on (1) oral comments made at the scoping session and two public meetings held on November 12 and 13, 1986; (2) written comments submitted after these meetings; (3) information obtained during a site visit on November 12, 1986; and (4) additional review of the Application for License and supplemental information provided by the Applicant.

Any questions concerning the Scoping Process or this Scoping Document should be directed to Brian Romanek at 202/376-1730 or Frank Karwoski at 202/376-1761.

Attachment: Scoping Document II

OFFICE OF FILE
FEB APR -7
Washington, D.C.

# EL PORTAL HYDROELECTRIC PROJECT

FERC No. 3581

## SCOPING DOCUMENT II

Federal Energy Regulatory Commission
Office of Hydropower Licensing
Washington, D.C.

March 1987

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EL PORTAL HYDROELECTRIC PROJECT
FERC No. 3581

SCOPING DOCUMENT II

## I. INTRODUCTION

The Federal Energy Regulatory Commission (FERC), pursuant to the Federal Power Act,* is authorized to issue licenses for terms of up to 50 years for the construction and operation of non-Federal hydroelectric developments. Keating Associates (Applicant) filed an application for license for the El Portal Project (FERC No. 3581-001) on February 28, 1984, and supplemented it with additional information on November 23, 1984, April 26, 1984, December 26, 1985, January 9, 1986, January 9, 1987, and February 23, 1987. The proposed project would be located on the Merced River (Fig. 1) at the town of El Portal, Mariposa County, California.

The FERC staff has concluded that issuance of a license would be a major Federal action significantly affecting the quality of the human environment. Pursuant to the National Environmental Policy Act (NEPA) of 1969** and the Commission's regulations, the staff is preparing an Environmental Impact Statement (EIS) that will include descriptions and evaluations of the probable environmental impacts of the proposed action and its alternatives.

The purpose of the scoping process is to identify significant issues related to the proposed action and to determine the extent to which these issues will be addressed in the EIS. Scoping Document I was prepared and circulated to serve as a basis for discussion during the scoping session and lists the major issues tentatively identified for inclusion in the EIS. Scoping Document II discusses modifications to the list of major issues to be addressed, based on comments received at the scoping session, two public meetings, a site visit, and additional review of the project by staff preparing the EIS. This second scoping document primarily addresses the issues raised during the scoping meeting and public sessions that differ from those described in the first document. All of the issues identified in Scoping Document I were considered important by commentors during the scoping process. Scoping Document I is, therefore, incorporated by reference to avoid repetition, and a copy is included here as Appendix A.

As a result of comments made during scoping and additional staff review, a decision has been made to gather additional information on recreation, aesthetics, and the local economy to permit FERC staff to assess the impacts of the project on recreation users and to provide a perspective on the

---

*16 U.S.C. Sect. 791(a)-825(r).

**P.L. 91-90, 42 U.S.C. 4341 (January 1, 1970) and as amended by P.L. 94-52 (July 3, 1975) and P.L. 94-83 (August 9, 1975).

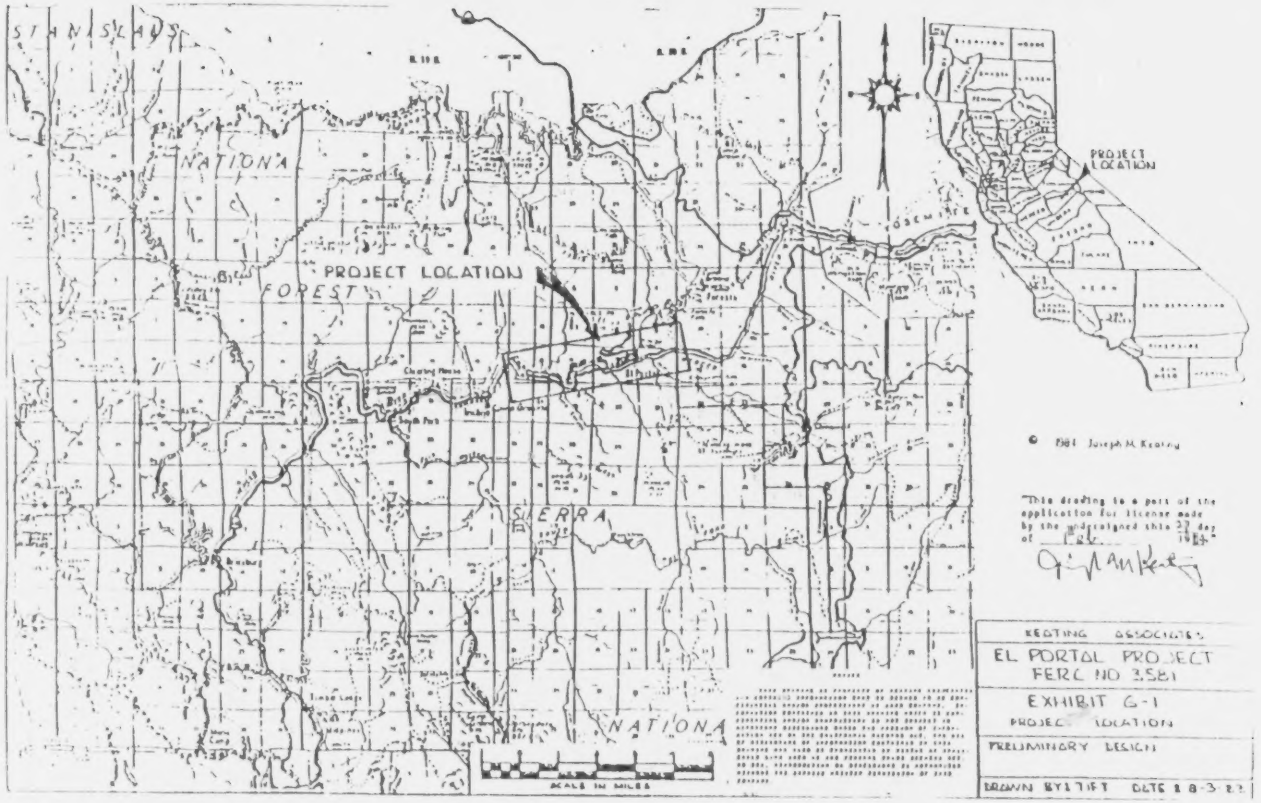


Figure 1. General Project Location. Source: Exhibit G, Application for License for a Major Unconstructed Project, El Portal Project, FERC #3581.

possible designation of the potentially affected reach as a recreational river within the Wild and Scenic River System. A survey of recreational users will be conducted during the spring and summer of 1987 by Oak Ridge National Laboratory to obtain information on recreation activities and related resources within the project area. The schedule for publishing the Draft EIS has, therefore, been delayed until October 1987.

Any questions concerning the scoping process of the EIS should be directed to Brian Romanek (202/376-1730) or Frank Karwoski 202/376-1761, Federal Energy Regulation Commission, Office of Hydropower Licensing, 825 North Capitol Street, N.E., Washington, D.C. 20426).

## 2. PROPOSED ACTION AND ALTERNATIVES

### 2.1 DESCRIPTION OF PROPOSED ACTION

#### 2.1.1 Purpose

The purpose of the project is to produce an estimated annual generation of 70 million kWh of power that would be sold to Pacific Gas and Electric Company (PG&E).

#### 2.1.2 Project as proposed

The proposed action remains essentially the same as described in Scoping Document I. The Applicant has submitted additional information on the proposed project on January 9 and February 23, 1987 in response to questions raised during the site visit and scoping meetings held in November. This additional information provides clarification and some additional detail on project and site features described in previous submittals to FERC.

#### 2.1.3 Proposed project with mitigation

Mitigative measures proposed by the Applicant will be discussed as part of the proposed project and their adequacy will be assessed as part of the EIS evaluation. Recommendations for mitigation by FERC staff will be treated in a separate section of the EIS.

### 2.2 PRINCIPAL ALTERNATIVES

#### 2.2.1 No Action

The no action alternative involves a denial of the license application for the El Portal Hydroelectric Project by the FERC. The no action alternative will be treated as described in Scoping Document I.

#### 2.2.2 Alternative Facility Designs

Alternative designs and locations that were described by the applicant in Exhibit E of the License Application and during the site visit will be described and evaluated in the EIS to the extent that available information allows.

## 2.3 ALTERNATIVES IDENTIFIED THAT WILL NOT BE EVALUATED IN DETAIL

### 2.3.1 Alternative Hydroelectric Power Sources

The range of alternatives to be discussed in an EIS shall encompass those to be considered by the ultimate agency decisionmaker [40 CFR 1502.2(e)]. In deciding on whether or not to license the El Portal Hydroelectric Project, FERC will not be considering a range of proposed projects which are defined as alternatives to one another (i.e., in this case sites are considered to be non-exclusionary). Instead, the Commission considers each project in terms of its potential for helping meet power demand. Although a detailed comparison of alternative hydropower sources with the proposed El Portal Project will not be included in the EIS, a limited discussion of sites on the Merced River will be provided, including South Fork, Indian Flat, and Crane Creek.

### 2.3.2 Alternative Non-Hydroelectric Power Sources

Because CEQ requires consideration of alternatives "not within the jurisdiction of the lead agency" [40 CFR 1502.14(c)], alternative non-hydroelectric power sources will only be briefly discussed in the EIS, referencing more detailed analyses in other FERC documents. However, because the applicant is a private developer and is, therefore not required to construct other power facilities if a license is not issued for the project, no detailed description or analysis of non-hydropower alternatives is planned for the El Portal project EIS.

## 3. ENVIRONMENTAL IMPACT ISSUES

Most of the comments raised during the scoping session and public meetings dealt with issues that have already been identified in Scoping Document I. A number of comments were very generic and included comprehensive lists of issues that might be applicable to any hydroelectric project. These comprehensive lists were not very useful in narrowing the scope of the EIS to address specific issues pertinent to the proposed El Portal project, but the lists were reviewed to ensure that significant issues had not been inadvertently omitted. The following discussion of issues focuses on incorporation of specific modifications in scope. The discussion is not intended to be exhaustive or final, but rather it is a listing of major issues that have been identified to date. The FERC considers identification and scoping of issues to be a dynamic and iterative process that will continue throughout the preparation of the EIS. Issues not considered as being significant either will not be covered in the EIS or will receive minimal treatment.

### 3.1 RECREATIONAL RESOURCES

Comments made by participants during the Scoping Session did not identify any issues related to recreational resources that had not been previously identified. Comments were focused on the lack of information available on minimum, maximum, and optimal flows for various recreational activities and the evaluation of project impacts on these flows. Another concern was related to the compatibility of locating the sewage discharge pipeline outflow in the same area as the Applicant's proposed rafting put-in site. In addition, the Mariposa County Board of Supervisors specifically requested that the EIS evaluate the touring public's selection of routes to Yosemite National Park and the impact of the proposed project on their choices.

As a result of comments made during scoping and additional staff review, a decision has been made to collect data during the spring and summer of 1987 on recreation and related resources in the potentially affected reach of the Merced River. A survey of recreational users will be conducted by Oak Ridge National Laboratory to obtain information pertinent to recreation activities, aesthetic preferences, and spending patterns. The schedule for the Draft EIS has consequently been delayed until October 1987.

### 3.2 AESTHETIC RESOURCES

Comments at the Scoping Session did not raise new issues on impacts to aesthetic resources. Comments were focused on how the analysis would relate flow changes to impacts on aesthetic resources, on concerns about the aesthetic impacts of the access road to the tunnel and the tunnel adit itself, and on consideration of the Highway 140 river canyon approach as an extension of the Yosemite Park experience. These concerns will be addressed in the EIS. The possibility of collecting additional data to help address

aesthetic impacts was discussed. The survey discussed in Sect. 3.1 above will provide additional data for the analysis of impacts on aesthetic resources.

### 3.3 LAND USE

Issues of concern have been identified in Scoping Document I and will be addressed in the EIS.

### 3.4 SOCIOECONOMICS

A number of comments were made concerning impacts of the proposed project on socioeconomics. A question was raised about the possible effect of the project on whitewater rafting revenues and local merchants (addressed in Scoping Document I). A suggestion was made that the applicant's two proposed funds (one for fisheries and one for recreation) be applied to the study of impacts on local economy. Concern was expressed about restricted use of the road from the Foresta Bridge to the powerhouse by recreationists during construction and operation. In addition, statements were provided by the California Department of Transportation (Caltrans) that (1) any work performed on highway right-of-way, including tunneling under Route 140, will need Caltrans approval and an encroachment permit, and (2) traffic control and/or diversion during construction will need to be acceptable to the local jurisdiction and Caltrans. These concerns and others discussed in Scoping Document I will be addressed in the EIS. Data collected during the survey described in Sect. 3.1 above will be used in developing the EIS analysis.

### 3.5 FISHERY RESOURCES

Comments on project impacts on the fishery resources included (1) a suggestion that impacts on the fishery population inside Yosemite Park be considered as part of the study, (2) a comment from EPA that they would probably disagree that the calibration range of the fish habitat model provided by the Applicant is adequate, (3) a question of whether impacts on stream benthos would be discussed, (4) a question of whether proposed regulations from the California Department of Fish and Game designating a portion of the Merced a wild trout stream would be addressed, and (5) a question of whether the EIS will consider the potential positive benefits of reduced water temperatures in summer caused by the water running through the tunnel. These concerns will be addressed in the EIS analysis.

### 3.6 WATER QUALITY AND QUANTITY

Comments on the impacts of the project on water quality and quantity included concerns about (1) how the proposed diversion would affect the operating capacity of the NPS sewage treatment plant, (2) a lack of plans, specifications, and economic analysis on the alternate discharge point, and (3) project impact on the existing beneficial uses of the river in reference

to the sewage treatment plant and other beneficial uses and water quality standards contained in the Central Valley Basin Plan. These concerns will be addressed in the EIS analysis.

## 3.7 GEOLOGY AND SOILS

No new issues on geology and soils were identified during the scoping session. Comments primarily concerned placement of part of the construction material and/or tunnel waste rock at a proposed raft launching site. The Forest Service is assuming that the tunnel waste rock will not be used for these or other purposes and will specify conditions for stabilizing it near the downstream end of the tunnel. The Applicant has provided additional information on its plans for waste rock disposal which will be incorporated into the EIS analysis.

## 3.8 ARCHAEOLOGICAL AND HISTORIC RESOURCES

No comments were made at the scoping session on impacts of the proposed project on archaeological and historic resources. One letter submitted during the comment period expressed concern that the project would detract from the environmental quality of the "Winter Trail" which follows the Merced River canyon to Yosemite. This issue will be addressed in the EIS sections on recreational and cultural resources, along with others discussed in Scoping Document I.

## 3.9 VEGETATION, WILDLIFE, AND SENSITIVE SPECIES

Several very general comments were made during scoping urging attention to terrestrial ecological resources, particularly riparian vegetation and sensitive plant species. One commentor provided a comprehensive, general listing of terrestrial ecology issues to be considered in all assessments of hydropower. These issues will be addressed in the EIS if they are applicable to the project and to the extent permitted by available data. No new project-specific issues were identified nor were suggestions on methodology given during scoping. Therefore, the approach described in Scoping Document I will be used in developing the EIS analysis.

## 3.10 OTHER ISSUES OF CONCERN

### 3.10.1 Wild and Scenic River Designation

The section of the Merced River that would be affected by the proposed project has been recommended for classification as a recreational river within the national Wild and Scenic Rivers System by the U.S. Forest Service. In addition, two bills have been introduced in the 1st Session of the 100th Congress (H.R. 317 and S. 275) that would give recreational river status to this reach of the Merced River within the Wild and Scenic Rivers System. As stated in Sect. 3.1 of Scoping Document I, the EIS will address the impacts

of the proposed project on the possible designation of the affected reach as a Wild and Scenic River. If the Merced River is made a component of the Wild and Scenic River System before the Commission issues a final decision, the license application for the El Portal project will be dismissed. Any final decision by the FERC will take into account the values set out by the Wild and Scenic River Act (Pub. L. 94-486).

3.10.2 Need for Power

The final California Energy Commission (CEC) 1985 Electricity Report, published in May 1985, shows a statewide basic need (after consideration of likely-to-be-available additional resources) for 6349 megawatts of electric power capacity. The CEC report also shows a remaining total need (after consideration of desired fossil fuel displacement) for 22,854,000 megawatt hours of energy to meet electric power requirements through the year 1996. The FERC staff recently received the draft CEC 1986 Electricity Report dated December 1986. The staff will be reviewing this report to update the need for power issue that will be discussed in the EIS.

3.10.3 Cumulative Impacts

The SWRCB and others stated that under NEPA, the EIS should evaluate the cumulative impacts of both the Small E project, for which the applicant presently maintains an active water right application, and the proposed El Portal project. At the present time, there are no active applications for licences, relicensing, or preliminary permits for hydropower projects along the Merced River on file with the FERC except for the El Portal project. In compliance with the National Environmental Policy Act, cumulative impacts will be considered under each major resource category to the extent that available information will allow.

## 4. EIS OUTLINE

The following outline is being used for the Draft EIS on the El Portal Hydroelectric Power. Changes to this outline may be made as the EIS is written.

1. PURPOSE AND NEED FOR ACTION

   1.1 Purpose of Action
   1.2 Need for Power
   1.3 Alternative Actions
       1.3.1 Hydroelectric Potential of Alternatives
       1.3.2 Non-hydroelectric Power Sources
       1.3.3 Economic Comparison of Alternatives

2. PROPOSED ACTION AND ALTERNATIVES

   2.1. Proposed Project
       2.1.1 Location
       2.1.2 Facilities and waste disposal area
       2.1.3 Construction Schedule
       2.1.4 Workforce Requirements
       2.1.5 Operation and Maintenance
       2.1.6 Safety Controls
       2.1.7 Proposed Mitigative Measures
       2.1.8 Compliance with Applicable Laws and Regulations
   2.2 Alternative Project Designs
   2.3 No-action Alternative
   2.4 Alternatives Identified During Scoping That Are Not Evaluated in Detail
       2.4.1 Alternative Hydropower Sources
       2.4.2 Alternative Non-hydropower Sources
   2.5 Comparison of Alternatives

3. AFFECTED ENVIRONMENT

   3.1 Proposed Project
       3.1.1 Land Use
       3.1.2 Geology and Soils
       3.1.3 Water Quality and Quantity
       3.1.4 Fishery Resources
       3.1.5 Vegetation, Wildlife, and Sensitive Species
       3.1.6 Aesthetic Resources
       3.1.7 Recreational Resources
       3.1.8 Socioeconomics
       3.1.9 Cultural Resources
       3.1.10 Wild and Scenic River Designation
   3.2. No Action Alternative
   3.3 Alternative Project Designs

4. ENVIRONMENTAL IMPACTS

4.1 Proposed Project
4.1.1 Land Use
4.1.2 Geology and Soils
4.1.3 Water Quality and Quantity
4.1.4 Fishery Resources
4.1.5 Vegetation, Wildlife, and Sensitive Species
4.1.6 Aesthetic Resources
4.1.7 Recreational Resources
4.1.8 Socioeconomics
4.1.9 Cultural Resources
4.1.10 Wild and Scenic River Designation
4.1.11 Proposed Project with Mitigation
4.2 No Action Alternative
4.3 Alternative Project Designs
4.4 Relationship to Laws and Policies
4.5 Unavoidable Adverse Impacts
4.5.1 Proposed Project
4.5.2 No Action Alternative
4.5.3 Alternative Project Designs
4.6 Irreversible and Irretrievable Commitment of Resources
4.6.1 Proposed Project
4.6.2 No Action Alternative
4.6.3 Alternative Project Designs
4.7 Relationship Between Short-term Uses and Long-term Productivity
4.7.1 Proposed Project
4.7.2 No Action Alternative
4.7.3 Alternative Project Designs

5. STAFF CONCLUSIONS

5.1 Significant Environmental Impacts
5.1.1 Proposed Project
5.1.2 No Action Alternative
5.1.3 Alternative Project Designs
5.2 Recommended Action
5.3 Recommended and Ongoing Studies
5.4 Project with and without Mitigation
5.5 Unmitigable Impacts

6. LITERATURE CITED

7. LIST OF PREPARERS

7.1 Federal Energy Regulatory Commission
7.2 Oak Ridge National Laboratory

8. LIST OF RECIPIENTS

APPENDICES

## 5. EIS PREPARATION SCHEDULE

The tentative schedule for preparation of the El Portal Project EIS is presented below:

| Major Milestone | Tentative Date |
|---|---|
| Scoping Meeting | November 13, 1986 (held as scheduled) |
| Survey of recreation, aesthetic, and local economic resources | April to August 1987 |
| Draft EIS completed | October 1987 |
| Final EIS completed | February 1988 |

## 6. INFORMATION REQUESTED

Although the Draft EIS is already under preparation, any federal, state, or local resource agency or other interested group or party is encouraged to forward to the FERC, any information that they believe should be considered by FERC staff in conducting an accurate and thorough analysis of environmental impacts related to the proposed El Portal Hydroelectric Project or any of the alternatives identified. The types of information that would be most useful include the following:

1. Identification of and information from any other environmental study [e.g., EIR, EIS, or similar study (previous, ongoing, or planned)] relevant to the El Portal project and alternatives.

2. Existing information and data that would aid in the characterization of baseline environments for recreation, aesthetic, and local economic resources.

To be useful in preparation of the El Portal Project EIS, the requested input must be received by FERC no later than June 30, 1987. Address all communications to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All filings must cite the project number (Project No. 3581-001).

APPENDIX A

# EL PORTAL HYDROELECTRIC PROJECT

FERC No. 3581

## SCOPING DOCUMENT I

Federal Energy Regulatory Commission
Office of Hydropower Licensing
Washington, D.C.

November 1986

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EL PORTAL HYDROELECTRIC PROJECT
FERC No. 3581

SCOPING DOCUMENT I

1. INTRODUCTION

The Federal Energy Regulatory Commission (FERC), pursuant to the Federal Power Act (FP Act),* is authorized to issue licenses for terms up to 50 years for the construction and operation of non-Federal hydroelectric developments. Keating Associates (Applicant) filed an application for license for the El Portal Project (FERC No. 3581-001) on February 28, 1984, and supplemented it on November 23, 1984, April 26, 1984, December 26, 1985, and January 9, 1986. The proposed project would be located on the Merced River (Fig. 1) at the town of El Portal, Mariposa County, California.

The FERC staff has concluded that issuance of a license would be a major Federal action significantly affecting the quality of the human environment. Pursuant to the National Environmental Policy Act (NEPA) of 1969** and the Commission's regulations, the staff plans to prepare an Environmental Impact Statement (EIS) that would include descriptions and evaluations of the probable impacts of the proposed action and its alternatives.

The purpose of the scoping process is to identify significant issues related to the proposed action and to determine the extent to which these issues will be addressed in the EIS. This scoping document has been prepared and circulated to enable appropriate Federal, state, and local resource agencies and other interested parties to effectively participate in and contribute to the scoping process. This document contains (1) a preliminary description of the proposed action and alternatives to be discussed and evaluated, (2) preliminary identification of environmental impact issues, and (3) a tentative EIS outline and schedule for EIS preparation.

Any questions concerning the scoping process of the EIS should be directed to S. Ronald McKitrick (202/376-9065) or Brian Romanek (202/376-1730), Federal Energy Regulation Commission, Office of Hydropower Licensing, 825 North Capitol Street, N.E., Washington, D.C. 20426).

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*16 U.S.C. Sect. 791(a)-825(r).

**P.L. 91-90, 42 U.S.C. 4341 (January 1, 1970) and as amended by P.L. 94-52 (July 3, 1975) and P.L. 94-83 (August 9, 1975).

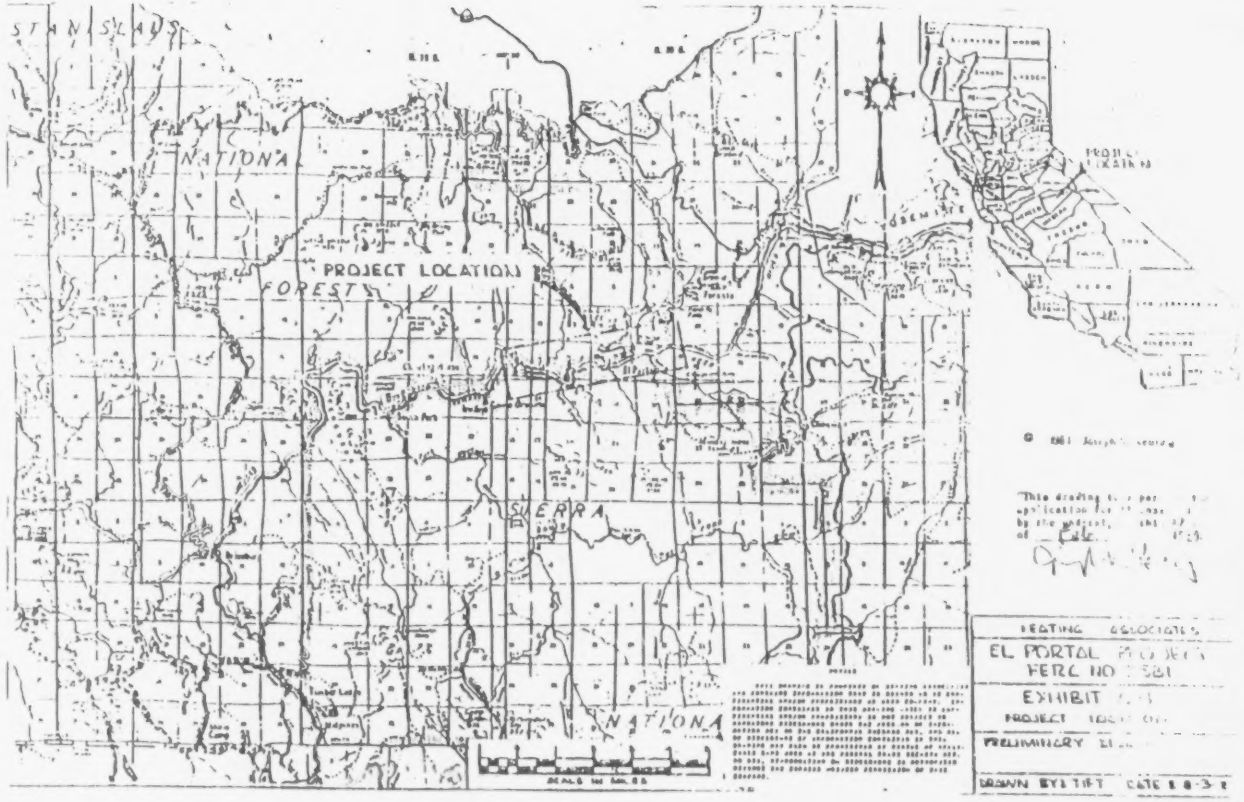


Figure 1. General Project Location. Source: Exhibit G, Application for License for a Major Unconstructed Project, El Portal Project, FERC #3581.

## 2. PROPOSED ACTION AND ALTERNATIVES

### 2.1 DESCRIPTION OF PROPOSED ACTION

#### 2.1.1 Purpose

The purpose of the project is to produce an estimated annual generation of 70 million kWh of power that would be sold to Pacific Gas and Electric Company (PG&E).

#### 2.1.2 Project Features

The proposed intake and diversion sites would be located on private land immediately adjacent to Highway 140, while the proposed tunnel would be located on U.S. Forest Service land (Fig. 2). The proposed project would consist of: (1) a 200-foot-long, 10-foot-high concrete diversion dam at elevation 2,110 feet with a 140-foot-long, 8-foot-high pelican gate; (2) a 15-foot-high, 175-foot-long concrete intake structure within the north bank of the stream; (3) a 10.5-foot to 16-foot-diameter, approximately 21,000-foot-long tunnel/penstock; (4) a powerhouse containing three generating units with total rated capacity of 22.1 MW, to operate under a head of 490 feet; (5) a 1,500-foot-long, 70-kV transmission line which would connect the powerhouse with an existing PG&E line southwest of the project; and (6) appurtenant facilities.

The construction cost of the project is estimated by the Applicant to be $30,000,000.

### 2.2 PRINCIPAL ALTERNATIVES

#### 2.2.1 No Action

No Action is equivalent to FERC's not granting a license for the El Portal Hydroelectric Project. Were no license granted, the Applicant could decide to pursue other project sites. The Pacific Gas and Electric Company would have to forego the opportunity of off-loading existing gas-fired generation by the output from the proposed project or pursue other non-fossil fuel energy options.

#### 2.2.2 Alternative Hydroelectric Power Sources

The Council on Environmental Quality regulations for implementing procedural provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508) state that the range of alternatives to be discussed in an EIS shall encompass those to be considered by the ultimate agency decisionmaker [Sect. 1502.2(e)]. In making a decision on whether or not to license a project, the Commission does not consider a range of proposed projects which are defined as alternatives to one another (i.e., sites are considered to be non-exclusionary), but rather considers each project in terms of its potential for helping meet energy demand by the year 2010. A detailed comparison of alternative hydropower sources with the proposed El Portal project is therefore not a consideration in FERC's licensing decision.

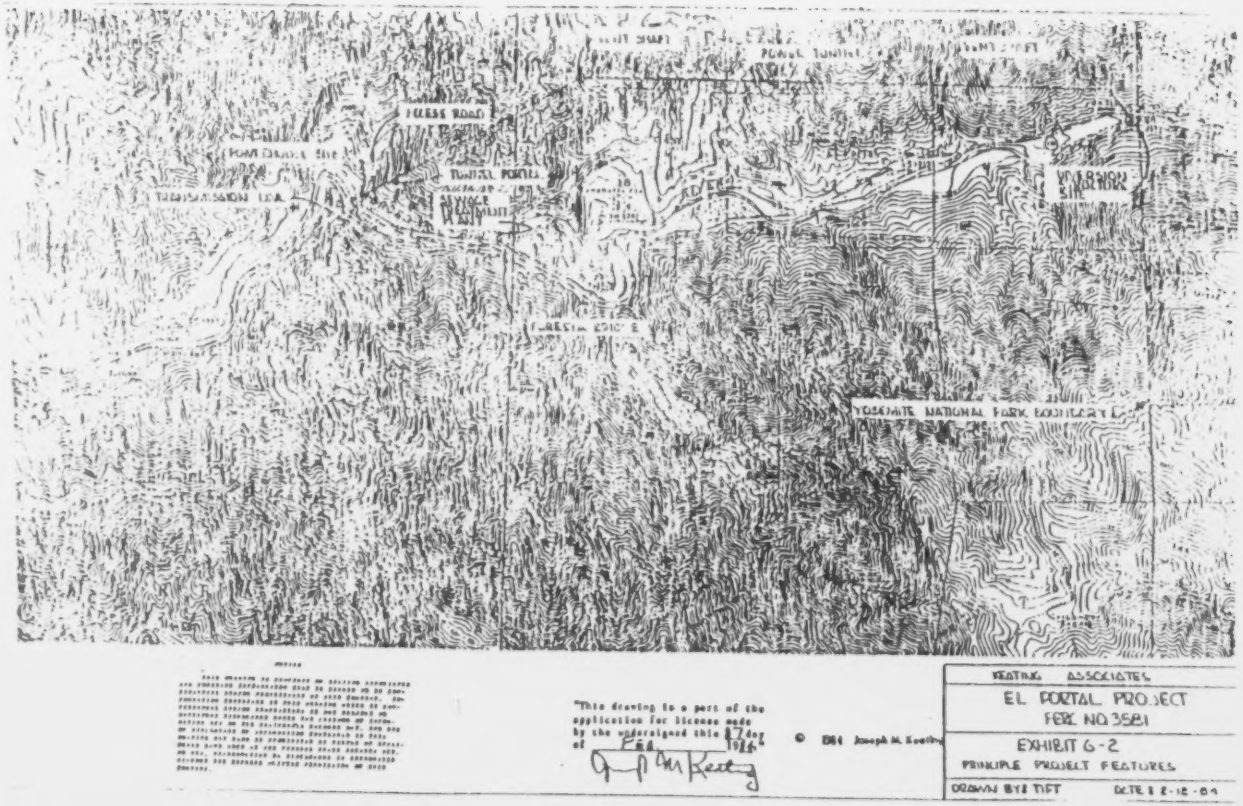


Figure 2. Location of Major Project Features. Source: Exhibit G, Application for a Major Unconstructed Project, El Portal Project, FERC #3581.

2.2.3 Alternative Facility Designs

The FERC staff will review and consider various alternative configurations, designs, and locations described by the applicant in Exhibit E of the Application or proposed by staff and others to the extent that available information allows.

## 3. ENVIRONMENTAL IMPACT ISSUES

A preliminary list of those environmental impact issues identified by the FERC staff for coverage in the EIS is presented in this section. The list is not intended to be exhaustive or final, but is rather an initial listing of issues that have been raised and appear to be potentially significant. For convenience, the issues have been listed in categories related to technical disciplines. Upon completion of the scoping meetings, the issues raised will be reviewed and decisions made as to the level of analysis needed. FERC staff will review all issues raised during scoping. If preliminary analysis indicates that any of these issues have little potential for causing significant impacts, the issue will be identified and the reasons for not providing a more detailed analysis will be given.

### 3.1 RECREATIONAL RESOURCES

- Changes in the attractiveness of the white-water experience, the timing and duration of the river-running season, the location of these activities, and the number of persons that use the river reach for white-water rafting or kayaking.
- Changes in fishing opportunities and use due to changes in aesthetics, altered flow regimes, and fish populations.
- Displacement of recreationists to other areas in the region that may provide comparable resources; potential impacts to these regions from changes in use (either increases or decreases).
- Impacts to the proposed Wild and Scenic River designation process and the classification of the reach.
- Changes in the nature of other recreation opportunities in the area such as camping, driving for pleasure, gold panning, hiking, swimming, photography, nature appreciation, as well as others.
- Conflicts with recreation management or development plans, particularly those of Yosemite National Park, the Sierra National Forest, Bureau of Land Management (Folsom Resource Area), and Mariposa County.
- Changes in society's assessment of the resource's existence and option values.

3.2 AESTHETIC ISSUES

- o Aesthetic impact of locating the diversion structure near the Yosemite National Park Boundary and of reducing the flow in a major stream immediately adjacent to a principal public access highway to the park.
- o The effect of reduced flows on aesthetics for both local residents and recreationists using the canyon.
- o Impact of the tunnel spoil disposal site, diversion structures, powerhouse, and transmission lines on the aesthetic quality of the area.
- o Aesthetic impact resulting from potential erosion of tunnel spoil.
- o Aesthetic impact from construction-associated noise and visual presence in the Merced canyon.

3.3 LAND USE

- o Project's relationship to current plans of Yosemite National Park (General Management Plan and El Portal Concept Plan).
- o Effect of the project facilities (including tunnel spoil disposal) on existing and future use of land in the vicinity.

3.4 SOCIOECONOMICS

- o Impacts of changes of recreation use and tourism on the economies of the El Portal area and Mariposa County. Of importance are potential changes in the total expenditures made by visitors to the area and the related changes in the tax revenues of the local government.
- o Effects on the local economy from the project's property tax payments, construction and operations employment, and recreation improvement expenditures.
- o Effects of the project on the level of county services required in the vicinity and the cost of providing these services.
- o Social and economic impacts of potential traffic disruption during the construction period.
- o Social and economic effects associated with housing construction workers.

3.5 FISHERY RESOURCES

- Effects on populations of wild trout and smallmouth bass resulting from changes in habitat quantity and quality.

3.6 WATER QUALITY AND QUANTITY

- Impacts of erosion and sedimentation during construction and of construction wastewater.
- Impacts of reduced dilution of the National Park Service wastewater treatment plant effluent.
- Impacts of toxic materials leaching from the tunnel spoil into surface and ground waters.
- Effects on the geomorphology and sediment transport of the Merced River.

3.7 GEOLOGY AND SOILS

- Stability of tunnel spoil disposal area.
- Effect of construction access roads on soil erosion and Merced River sediments.

3.8 ARCHAEOLOGICAL AND HISTORIC RESOURCES

- Increased vandalism and collecting at sensitive archeological sites as well as sacred Native American burial grounds as a result of improving physical access by reduction of flows and construction of the proposed raft launching site.
- Disturbance of unknown prehistoric and historic sites during project construction.

3.9 VEGETATION, WILDLIFE, AND SENSITIVE SPECIES

- Impacts of tunnel construction and disposal of tunnel spoil on local wildlife habitat or sensitive species.
- Impacts of project construction and operation on the riparian plant community and its associated wildlife.

EIS OUTLINE

1. PURPOSE AND NEED FOR ACTION

- 1.1. Purpose of Action
- 1.2. Need for Power
- 1.3. Alternative Actions
  - 1.3.1. Hydroelectric Potential of Alternatives
  - 1.3.2. Nonhydroelectric Power Sources
  - 1.3.3. Economic Comparison of Alternatives

2. PROPOSED ACTION AND ALTERNATIVES

- 2.1. Proposed Project
  - 2.1.1. Location
  - 2.1.2. Facilities
  - 2.1.3. Construction Schedule
  - 2.1.4. Workforce Requirements
  - 2.1.5. Operation and Maintenance
  - 2.1.6. Safety Controls
  - 2.1.7. Proposed Mitigative Measures
  - 2.1.8. Compliance with Applicable Laws and Regulations
- 2.2. Alternatives
- 2.3. No-action Alternative

3. AFFECTED ENVIRONMENT

- 3.1. Proposed Project
  - 3.1.1 Land Features and Use
  - 3.1.2 Water Quality and Quantity
  - 3.1.3 Aquatic Communities
  - 3.1.4 Terrestrial Communities
  - 3.1.5 Sensitive Species
  - 3.1.6 Socioeconomic Factors
  - 3.1.7 Recreational Resources
  - 3.1.8 Aesthetic Resources
  - 3.1.9 Cultural Resources
- 3.2. Alternatives

4. ENVIRONMENTAL IMPACTS

- 4.1. Proposed Project
  - 4.1.1 Land Features and Use
  - 4.1.2 Water Quality and Quantity
  - 4.1.3 Aquatic Communities
  - 4.1.4 Terrestrial Communities
  - 4.1.5 Sensitive Species
  - 4.1.6 Socioeconomic Factors
  - 4.1.7 Recreational Resources
  - 4.1.8 Aesthetic Resources
  - 4.1.9 Cultural Resources
  - 4.1.10 Mitigation

4.2. Alternatives (Described in Section 2.2.)
4.3. No-action Alternative (Described in Section 2.3.)
4.4. Comparison of Alternatives
4.5. Relationship to Laws and Policies
4.6. Unavoidable Adverse Impacts
    4.6.1. Proposed Project
    4.6.2. Alternatives
4.7. Irreversible and Irretrievable Commitment of Resources
    4.7.1. Proposed Project
    4.7.2. Alternatives
4.8. Relationship Between Short-term Uses and Long-term Productivity
    4.8.1 Proposed Project
    4.8.2. Alternatives

5. STAFF CONCLUSIONS

5.1. Significant Environmental Impacts
    5.1.1. Proposed Project
    5.1.2. Alternatives
5.2. Recommended Action
5.3. Recommended and Ongoing Studies
5.4. Project with and without Mitigation
5.5. Unmitigable Impacts

6. LITERATURE CITED

7. LIST OF PREPARERS

7.1. Federal Energy Regulatory Commission
7.2. Oak Ridge National Laboratory

8. LIST OF RECIPIENTS

APPENDICES

E. EIS PREPARATION SCHEDULE

The tentative schedule for preparation of the El Portal Project EIS is presented below:

| Major Milestone | Tentative Date |
|---|---|
| Scoping Meeting | November 1986 |
| Draft EIS completed | May 1987 |
| Final EIS completed | August 1987 |

6. INFORMATION REQUESTED

Federal, state, and local resource agencies and other interested groups and parties are requested to forward to the FERC, or present at the FERC Scoping Meeting, any information that they believe will assist FERC staff in conducting an accurate and thorough analysis of environmental impacts related to the proposed El Portal Hydroelectric Project or any of the alternatives identified. The types of information sought include the following:

1. Information, data, or professional opinion that may contribute definition of scope and identification of significant environmental issues.

2. Identification of and information from any other EIS or similar study (previous, ongoing, or planned) relevant to the El Portal Project of alternatives.

3. Existing information and data that would aid in the characterization of baseline physical/chemical, biological, and socioeconomic environments.

4. Identification of any federal or state resource plans that include the area of the proposed El Portal project.

To be useful in preparation of the El Portal Project EIS, the requested input must be received by FERC no later than December 15, 1986. Any information that can be submitted prior to the scoping meeting would be greatly appreciated. Address all communications to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All filings must cite the project number (Project No. 3581-001).

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

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U.S. House of Representatives
Committee on Interior and Insular Affairs
Subcommittee on National Parks and Public Lands

Testimony of Joseph Keating on Behalf of
the El Portal Hydroelectric Project, FERC No. 3581

on

H.R. 317, To Amend the Wild and Scenic Rivers Act by Designating A Segment of the Merced River as a Component of the National Wild and Scenic Rivers System.

Mr. Chairman, Honorable members of the Subcommittee on National Parks and Public Lands:

My name is Joseph Keating. I am speaking today on behalf of the proposed El Portal Hydroelectric Project that is planned for development on the Merced River in Mariposa County, California.

Thank you for allowing me the opportunity to express my deepest concern and opposition towards the proposed legislation before you. My opposition to the proposed legislation can be briefly summarized in two parts. First, the bill as proposed is an initiative that is designed to designate a reach of the Merced River as Wild and Scenic specifically to stop the proposed El Portal Hydroelectric Project. Yet, this project is environmentally sound and will be located on a reach of river which is already significantly developed and the subject of extensive public and private development plans. To designate as

Wild and Scenic this already extensively developed stretch of the Merced River is ill-founded and a misapplication of the legislative intent of the Wild and Scenic Rivers Act. The single-minded purpose of stopping the proposed El Portal Hydroelectric Project shows that H.R. 317 is legislation potentially gone awry, legislation that is not warranted given the regulatory requirements already in place regarding such projects.

Secondly, contrary to the remarks included in the January 6th Congressional Record, opposition to the project is not universal; construction of the project will not have a serious negative effect on the local economy, but will, in fact, provide substantial benefits to the local economy. Fish and wildlife habitat within the project area can and will be protected, and no rare plant or animal species will be affected. Geological formations special to the general vicinity will not be affected in the least; waterfalls will continue to flow and their esthetic values will be protected. Angling and swimming recreational opportunities will actually be enhanced by the project, and whitewater rafting will be protected. Contrary to the premises outlined in the Congressional Record, the beauty of the Merced River can and will be preserved as it now exists for future generations, while at the same time a small reach of the Merced, located outside of the national park boundary and adjacent to an area already heavily influenced by man's

activities, can be conscientiously developed to produce a significant contribution of efficient, dependable and renewable hydroelectricity for now and for future generations. The proposed legislation before you, although possibly appropriate for more popular recreational reaches of the Merced downstream of the proposed El Portal Project, appears to be based on misinformation: there is a way to develop the El Portal Project in a manner that is compatible with the environment as well as with the preferred public land management objectives for the project area. The project proponents are deeply committed to developing just such a facility.

The project is located adjacent to a reach of the Merced River that is outside the national park boundary. Contrary to rumors currently circulating about the project, water will not be backed-up into the park by the project's diversion feature. Also, the specific area to be affected by the project does not evoke images of natural scenic beauty suitable for designation as a Wild and Scenic River. Common to the area are gas stations, grocery stores, motels, paved highways that follow the river, power transmission lines and towers, sand pits, storage yards, active and abandoned mines, the community of El Portal and, most significantly, a large-scale (2 million gallons per day) sewerage treatment facility that treats all of the wastewater from the national park and discharges it directly into the Merced River.

Located approximately 12 miles upstream of the proposed El Portal Project is an existing dam and powerhouse facility that had been operating within the national park for the past 65 years, generating power for national park use. 1/ Outside the national park boundary, and located along the section of river proposed for development by the El Portal Hydroelectric Project, is the community of El Portal and the National Park Service administrative headquarters. The population of this community exceeds 1000, and is expected to double over the next ten years as proposed in current land and resource management plans for the area. Private developers and concessionaires will be encouraged to build new motel facilities outside the park along this stretch of the river in accordance with the public agencies' plan for this area. Timber harvests will be allowed; mining will continue; power transmission lines and corridors will remain exposed to view; and transportation and maintenance facilities will be expanded along this stretch of the Merced River, all in accordance with the Sierra National Forest's proposed land management plan. In other words, the designation of this stretch of the Merced River as Wild and Scenic -- from the boundary of the national park to one-mile downstream of the community of El Portal -- is clearly inappropriate. A video presentation of the

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1/ This facility was recently abandoned by the National Park Service, apparently to permit the Park Service to oppose the El Portal Project.

project area confirming these existing area impacts, which includes extensive aerial footage, will be made available to the Committee shortly.

The contention of proponents of this legislation that the proposed El Portal Hydroelectric Project is inconsistent with the other development programs existing and planned for the project area, including the National Park Service sewerage treatment facility, the growing community of El Portal, and the planned development of additional motels and service facilities for this area, demonstrates a glaring lack of knowledge of the project and its potential effects.

For the record, the project is a small-scale hydroelectric project. The diversion structure for the project will be only eight feet in height, and will be similar in size and appearance to the existing upstream dam managed by the National Park Service. A tunnel will transport the water to the powerhouse four miles downstream, and the electricity generated from the project will interconnect to an existing Pacific Gas and Electric Company transmission line only three thousand feet away. The diversion structure for the project and a portion of the tunnel are located on private lands, and the owner of these lands strongly supports the development of the project. Extensive biological studies have been conducted over the past six years to quantify project impacts and provide guidelines for project mitigation measures. Detailed hydrological investigations have

been refined and updated. A state-of-the-art IFG-4 instream flow study has been conducted by aquatic biologists. Fish population studies have been completed. Rare plant and animal surveys, and archaeological surveys have been documented and furnished to interested land and resource management agencies. Overall, with regard to these resources, it is generally agreed that mitigation measures can be developed and implemented as part of the proposed El Portal Hydroelectric Project to protect these important resource values. The project will not devastate the project area as the proponents of this legislation suggest. In fact, opportunities exist with the project that will actually enhance certain resource values, including swimming, hiking and angling.

The project will generate many substantial benefits. The energy of falling water will be converted in three enclosed turbines (having a net capability of 22 megawatts) to generate 75 million kilowatt hours of electricity annually, the equivalent of over 122,000 barrels of oil per year. The expected life of this type of dependable energy development is more than seventy years, during which time the equivalent of 8.54 million barrels of imported oil will be displaced. This is a significant amount of energy. In addition, during the construction of the project, jobs for over 60 people will be created for a two and one-half year period. The payroll and other local benefits will exceed $12 million dollars. Each year the project will pay approximately $350,000 dollars to Mariposa County in local

property taxes. A recreation, wildlife and fish enhancement fund would be established for the community of El Portal in the amount of $52,000 dollars per year. This fund would be escalated annually for the first ten years of the project. These project benefits go completely unrecognized in the remarks contained in the January 6th Congressional Record, and yet these are just some of the many benefits of project development that will be precluded with passage of H.R. 317.

On the regulatory side, the proposed project is in the application stage only. An environmental impact statement is being prepared by the Federal Energy Regulatory Commission at a cost to the public of $350,000. The results of this environmental impact analysis will not be available until the late fall of this year, and this date is likely to be delayed. Until that time, no development action with regard to the project can be taken by the FERC or the applicant. Following the issuance of the FERC environmental impact statement there are likely to be appeals by interested parties that further delay the process. After this, the license applicant must obtain Section 4(e) conditions from the Forest Service which involves several steps, all of which are likely to be appealed by interested parties. Throughout all of these regulatory procedures the public will be invited to provide comments, data, or testimony and actively participate in shaping the fate of the proposed El Portal Project. The project may thus be modified; mitigation

measures for the project will be proposed and refined, and then the Forest Service can set specific conditions under its Special Use Permit Procedures. Only after this considerable public procedure is fully carried out could a license be issued by the FERC. With all these opportunities for regulatory checks and balances, there is no need for special legislation such as H.R. 317 to stop such a project.

For these reasons, with all due respect to the sponsors of this legislation, I strongly recommend against passage of this bill. Instead, I recommend that the scientific and technical analysis that is now being performed by the Oak Ridge National Laboratory and supervised by the FERC provides the basis for determining whether an efficient, clean, renewable energy project can be successfully developed in a manner that is compatible with the designated recreation uses and environmental resources of the project area. I believe that it can. I believe that the project can be built in a manner that minimizes the visibility of the eight feet tall diversion structure, with water passing over it at all times, like the one in the Park. The four-mile long underground tunnel was selected to protect the visual resources of the area. No pipeline will be visible; no open flume. The powerhouse will be constructed in a manner whereby it is visually shielded from passing motorists or rafters; the structure will be partially buried and shielded by a riparian screen of dense vegetation. The tailrace will be buried and constructed of

natural boulders to dissipate tailrace flows at its exit. I submit that the project can be built and operated in a manner that protects the visual character of the area.

I believe that the project can be operated in a manner that protects the recreational resources of the area. The minimum flow that I proposed to release downstream of the proposed diversion, is nearly twice the average summer low flow that naturally occurs in this reach of the Merced on an annual basis. I are conscious of the need to protect the aesthetic values of the project area because I am aware that any decrease in these values may adversely affect the recreational resources and economy of the area. I have performed visual studies at the request of the FERC, the results of which show that the visual effects of operational flows will be imperceptible to the casual observer. These same flows will make for a better recreational fishery as well. The Merced will be more accessible for a longer duration of time to the average recreational angler and swimmer than exists under preproject conditions. More fishing and swimming means more recreation.

During the wintertime and during spring runoff, when flows are naturally high, the amount of water diverted from the Merced for power generation as compared to the amount of water that will be cascading over the small, run-of-river diversion

structure, will be minimal. The diversion will appear as a whitewater crest just as the river now appears as it cascades over existing natural boulders.

The most important recreation issue that remains controversial about this project is whether the project can be operated in a manner that will provide the recreation community the same opportunity to enjoy rafting and kayaking on the Merced as now exists under preproject conditions. I believe that power generation and whitewater rafting and kayaking can be compatible on this stretch of the Merced River. This particular reach of the Merced is not, however, considered by rafters to be a significantly valuable rafting reach. The affected project reach is essentially upstream of where the majority of rafting takes place on the Merced. This was determined at the recent public hearings that are referenced in the January 6th Congressional Record. Valuable or not, however, I believe that the duration and volumes of flows necessary for whitewater rafting and kayaking can be modelled and quantified, just as the recreational values of angler access and suitability and swimming can be quantified. I believe that this analytical approach is the only means available to determine what flows are necessary for such recreational use. The project would be designed, for example, to remain partially operational during these seasonal periods, operating at a reduced capacity during the daylight hours when rafting and kayaking are possible and at higher capacity during

the nighthours when such activities are not possible. Rafting and kayaking are seasonal sports on the Merced. During those seasons, I believe that the project can operate so that these sports are protected, while clean, renewable power generation can be ongoing.

Additional recreational benefits derived from the project will include informational and telephone services for rafting, kayaking and other recreation groups. Equestrian trails could be readily established along the abandoned Yosemite Valley Railroad track, and could be maintained by proceeds derived from the project. The FERC license application includes a proposal for a substantial monetary fund for the community of El Portal to be dedicated specifically to recreational improvements within the general area. With regard to the potential effects on recreation values of the project area due to project implementation or operation, I believe that quantifiable scientific analysis and sensitive design engineering can shape a feasible project that fits with the existing recreational uses of the project area. I do not believe this should be done by legislative fiat; I believe this should be done by site-specific analysis. Oak Ridge National Laboratory is now assessing these very issues.

Honorable members and staff of the Subcommittee on National Parks and Public Lands, to whom I look for responsible leadership and good government, I strongly urge you to reject this bill as presented and, instead, to encourage FERC and the

resource agencies to perform in good faith their ongoing analyses to determine how a renewable domestic energy source can be developed on this reach of the Merced in a manner that accommodates the environmental and recreational needs of the project area. I have been working six years with government agencies at a cost that exceeds $450,000 dollars - private sector investment - to perform such studies and to make these decisions. The government, meanwhile, has spent an unknown amount in addition to the $350,000 now budgeted to do the EIS. I hope to continue with this analysis. It is important. It affords us as a nation the opportunity to develop a renewable source of clean energy. I believe this is not only important but consistent with the legislative intent of the Public Utilities Regulatory Policy Act from which this project was conceived. None of us will benefit from a piece of legislation like H.R. 317: scientific analysis will be disregarded, a domestic energy source will be forever lost, and even the County of Mariposa, the host county for the project and the Merced, has troubling reservations about this bill and its potential adverse effects to the county's growth objectives. A bad piece of legislation cannot answer the relevant questions about the Merced or this project. Only study and science can answer these: a laboratory and not Congress is the proper jurisdiction for this debate. I realize the debate is complex, and that some of the issues espoused by interested parties are meritorious and need to be addressed. The proper

forum for this debate should be the environmental impact analysis presently being carried out under supervision of FERC and I accordingly support this procedure. For this rational and scientific approach to continue I need your support, and not the proposed legislation before you.

I will be pleased to answer any questions about the project you may have. I request that the record remain open so that I may have an opportunity to submit the video program documenting the status of existing development along the Merced River in the vicinity of the Project site. Thank you for your consideration of this important matter.

KEATING ASSOCIATES
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May 6, 1987

Senator Dale Bumpers, Chairman
Public Lands, National Parks & Forests
Committee Room
SD 364 Dirksen Building

Subject:
Supplemental Testimony
of Joseph M. Keating to
that Presented 4/23/87 on
Merced River Wild and
Scenic Bill

Dear Senator Bumpers:

During the April 23, 1987 hearing Vice Chairman Bingaman indicated that the public record would remain open for two weeks.

To help the subcommittee evaluate the merits of designating the five mile length of the Merced River that would be affected by the proposed El Portal Hydroelectric Project, FERC #2961, I am submitting two duplicate VHS video tapes with a written travelog that I believe best illustrates the scenic, recreational and other land use values now established on this section of the Merced River.

I request your subcommittee consider recommending to the full Committee a revised bill that would allow the pending proposed hydroelectric project to complete its processing which is now midway through a $350,000 FERC - EIR before precluding its development. The scientific and good faith effort in this project's development should not be wiped out by preservationist rhetoric and misinformation that seems to be the cross of the Hydro Industry. Let the science of the studies guide your final decision.

The proposed project as designed, in my opinion is compatible with a recreation classification under the Wild & Scenic legislation.

Sincerely,

Joseph M. Keating

Joseph M. Keating

Encl: 2 VHS video tapes titled:
El Portal Hydro FERC #35 El
Nov. 26, 1986, w/window dubs
Ground and Aerial Views of Project area
Use with Written Travelog

cc: Subcommittee Members
Calif. Senator Pete Wilson
Calif. Senator Alan Cranston
Secretary Plumb., FERC w/VHS
Oakridge National Laboratory, w/VHS

Video Tape Description
Taken November 26, 1986
El Portal Project
FERC #2581

Supplemental
Testimony
Joseph M. Keating
April 23, 1987

| FOOTAGE STATION START | FINISH | LOCATION | DESCRIPTION |
|---|---|---|---|
| 0100160 | 010300 | Inside Yosemite Park | Park dam used for 65 years as intake for hydro facility -schedule for demolition -it is about 3 times the height of the one proposed for the El Portal project. |
| 010300 | 010350 | " | Old redwood penstock |
| 010349 | 010519 | " | Old powerhouse & transformer yard & switch center |
| 010520 | 010822 | Jette's Private Property near park boundary | Proposed location of El Portal project diversion structure |
| 010611 | | | Axis of diversion structure, El Portal |
| 010672 | | " | Park boundary sign |
| 010718 | | " | Trailer's & parking |
| 010822 | 011123 | 4 miles downstream of Park boundary. | Hwy 120 opposite proposed tailrace of proposed project. Large pool. Powerhouse location 010906 directly opposite this location. |
| 010832 | | | |
| 011001 | | | o Power tunnel exit approximately half way up hill total head=485 feet view up river |
| 011155 | 011312 | Helicopter view moving upriver | Helicopter view of Mariposa, CA and highway to Merced River. |

| FOOTAGE START | FOOTAGE FINISH | LOCATION | DESCRIPTION |
|---|---|---|---|
| 011712 | | Helicopter view moving upstream | Confluence S. Fork with Merced main stem moving upstream. Note double road system & transmission lines |
| 011544 | | - | Motel & restaurant complex, etc. |
| 011621 | | - | PG&E substation |
| 011644 | | - | Cal Trans sand stockpile |
| 011657 | | - | Large pool in river. Center of view. Ground viewed previously, 010832. Location of seal-buried power house. |
| 011732 | | - | Foresta Bridge. Access to Sewer Plant & junk yard of NPS |
| 011800 | | - | Sand collection station in Merced River, NPS. |
| 011812 | | - | El Portal residents area & school |
| 011846 | | - | Trailer park |
| 011852 | | - | Hwy 120 bridge crossing of Merced River |
| 011907 | | - | NPS administrative office complex |
| | | | Residential housing area |
| 011918 | | - | Gas station & restaurant complex |
| | | | Continuarion of residential housing area. |

| FOOTAGE STATION START | FINISH | LOCATION | DESCRIPTION |
|---|---|---|---|
| 011950 | | Helicopter view moving upriver | Motel area at Park line |
| 012000 | | " | Trailer cluster at Jette's private land. Easement for necessary lands for hydro project have been obtained. |
| 012240 | | " | Proposed diversion structure location just upstream of trailer cluster. Note Pari transmission line 70 KV. |
| 012243 | | Helicopter view moving downstream | Moving downstream |
| 012747 | | | Old mine shafts & adits. |
| 012910 | | | School grounds. |
| 012922 | | | Sand reclamation dredging area NPS Note: equipment |
| 013025 | | | NPS Sewage treatment plant storage. |

NEW NUMERICAL FOOTAGE SEQUENCE

| | | | |
|---|---|---|---|
| 000036 | | | Proposed powerhouse location Note large pool in river. |
| 000114 | | | Sand storage |
| 000205 | | | PG&E 70 KV transmission line opposite |
| 000275 | | | Proposed outlet portal of 4 mile tunnel. 500 VF shaft inside mountain. |
| 000414 | | | PG&E Sub station previously viewed. Now moving downstream on opposite side of canyon below project area. |

| FOOTAGE STATION START | FINISH | LOCATION | DESCRIPTION |
|---|---|---|---|
| | 000717 | | Previously viewed as Station 01621 of prior sequence. |
| 00720 | 000945 | | Typical river habitat. |
| | 001005 | | Sand trap |
| | 001049 | | South Fork confluence with main stem of Merced River |
| | 001124 | | Camping/dredging activity |
| | 001342 | | Return to sand storage near proposed powerhouse. |
| 001400 | 01550 | | Typical river habitat in project area. |
| 01550 | 001706 | | Error in recording |
| | 001714 | | Sewer plant. Sand pit El Portal. |
| 001714 | 001811 | | High elevation view of area. |
| 001811 | 002011 | | View of Mariposa |
| 002011 | End of tape. | | Helicopter start up. |

END OF TAPE

If any questions result from the viewing, please contact:

Joseph M. Keating
Keating Associates
(916) 622-9013

Senator BINGAMAN. Well, thank you very much for your testimony. I appreciate both of you testifying and I do not have questions at this time. It is possible other committee members will have questions when they go over this.

Let me just thank all the witnesses. I think everybody has been extremely good about trying to summarize their points and make them very quickly. I do think we have a good record here that the rest of the committee can view, and we will undoubtedly be taking some action on these bills sometime in the coming months.

We appreciate you all coming, particularly those of you who have come all the way from California.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

[COMMITTEE NOTE.—Due to the voluminous nature of materials submitted for the record all additional statements and letters have been retained in subcommittee files.]

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